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JOURNAL OF HENRY COCKBURN

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JOURNAL

OF

HENRY COCKBURN

BEING A CONTINUATION OF THE

MEMORIALS OF HIS TIME

1831-1854

VOL. I.

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DIRECTIONS FOR BINDER.

Place Facsimile of Dr. Chalmers' Notes at page 46 ; Facsimile of Mr. Lockhart's Sketch at page 173 ; and Facsimile Notes of Sir Charles Bell's First Lecture in London at page 218.

THE first portion of Lord Cockburn's "Memorials of His Time" consisted of an unbroken narrative ending at the close of the year 1830. It was published in 1856.

"Since 1830," Lord Cockburn writes, "I have gone on recording occurrences as they have arisen, though often with large intervals. This habit of making a note of things worth observing at the time coincided with the change of life implied in my becoming Solicitor-General, in separating the first part from the subsequent pages."

CHAPTER I.

1831-1833.

THE circumstance that excites the greatest horror in the Tory mind is the spectacle of Brougham sitting on the woolsack.

Towards the end of December (1830) I went to London, on a summons from Government, to confer on the reform of the representation of Scotland. I remained there a week in constant communication with Lord John Russell, the Earl of Durham, Lord Duncannon, and Sir James Graham, the committee of the Government to whom the preparation of the measure was remitted. Kennedy of Dunure was my associate in all these matters. We had no difficulty whatever in adopting the £10 franchise, after which everything else resolved into mere detail and machinery. It was the first personal intercourse I had ever had with Cabinet Ministers as such, and I was very much struck with their acuteness, brevity, and clearness, their anxiety to be instructed, and business-like way of proceeding. The preparation of Scotch reform was greatly

facilitated by our freedom from local rights, our paucity of nomination burghs, and the total absence of all popular franchise. The whole thing had to be created, and, except an aversion to the principle of reform, there was no obstruction to its creation. The nature of the general measure of reform that was to be proposed was confided, I believe, only to about twenty-three persons; and it is a fact, perhaps unexampled, that a secret, known so long to so many, never transpired.

19th January 1831. On the 14th instant Jeffrey was returned to Parliament for the Perth burghs; but it is very doubtful whether the return will stand. If it does not, he will probably have in his first two months of office spent a whole year's salary in attempting to get a seat, to say nothing of nearly the utter ruin of his professional practice. The condition of the Lord Advocate's office in relation to Parliament must be changed, unless it be intended to keep it for men of fortune who are barristers only in name. He must get a Government seat free of expense, or get the representation of his country thrown open; and he must not be expected to go to London except in matters touching his own proper office. At present, for £2500 a year, he is expected to lay out that money, at the least, on a seat, and then to extinguish his practice by being in London, where he is looked to on everything connected with Scotland, or with every Scotch city or parish.

In the course of his canvass he has made many good speeches, but still I fear for him in Parliament. Nearly sixty years of age, a bad trachea, inexperience, and a great reputation, are bad foundations for success in the House of Commons.

21st January 1831. Brougham, ambitious to leave the marks of his footsteps everywhere, has written to our Dean (John Hope) for his opinion, and that of Jeffrey and me, on a scheme which he has of introducing patents of precedence at the Scotch Bar. We have given the project a decided negative. It is very doubtful whether the Crown has power to *introduce* such a thing, but at any rate it is uncalled for and would be pernicious. The honour would be certain to be abused in its distribution, and where it is rightly conferred of what use is it in addition to the natural precedence of merit? I have never known a vestige of professional jealousy at our Bar. The Bar in England is constantly degraded by it. It tainted even Romilly. I cannot doubt that the prevalence of this weakness is very much owing to these artificial distinctions. Brougham has not said so, but I suspect that this is but a part of a plan which he disclosed about a year ago in the House of Commons, of introducing English Counsel to our Bar, and English Counsel to our Courts—an ignorant and reckless project.

15th February 1831. On the 9th the Rev.

Andrew Thomson, after being at a meeting of Presbytery, seemingly as well as usual, fell down at his own door in Melville Street. His death has made a deep and universal sensation. It is very gratifying to see how much real affection may exist amidst established public hostility. A stranger would suppose now that Thomson had never had an opponent. Death, removing controversy, restores kindness. I knew him long and well. The first speech I ever tried to make, and the first he ever made, were against each other in the Academical Society. He was a strong-headed, able man, of good natural speaking powers, perfectly honest, quite fearless, and always keen. His defects were a certain intemperance in his means, and an insatiable appetite for controversy. Yet, in spite of this last tendency, and of the vituperation which sometimes accompanied it, he was in truth a soft-hearted, gay-tempered person. Except Chalmers and Inglis, the Church contains no man of equal talent or influence, though they are both beyond him. His speaking was very good; but it was all hard, loud argument, and relieved only occasionally by powerful bursts. The arguing was too common, the bursts too few. Still his energy, courage, formidableness, and purity of objects, made him a great stay of the right cause; and had he had moderation to keep himself more clear of personal conflict, his influence would have been boundless. His surviving

his own defects is the best proof of his real power and worth.

He was buried to-day in the West Churchyard, accompanied by the greatest crowd of mourners and of spectators by far I ever saw at the funeral of any man not in high public station. Much of this arose from the strong hold he had on his congregation and the community, but much of it from his being struck down so suddenly.

17th March 1831. On the 1st of March the curtain through which no eye had penetrated was drawn up, and the great measure of reform disclosed; and never certainly was the opening of any scene received with louder applause by the country. It is impossible to exaggerate the ecstasy of Scotland, where to be sure it is like liberty given to slaves: we are indeed to be brought out of the house of bondage, out of the land of Egypt. Everybody has behaved well, except the freeholders, whose exclusive privilege is to be destroyed. Many town-councils, and all corporations, though their political monopoly is also to be extinguished, and Radicals whose expectations the measure falls short of, have all abated their separate claims, and concurred in hailing the deliverance of their country. There have been meetings everywhere, and a universal burst of popular feeling. The watchwords of the Anti-reformers are Revolution and

the Wisdom of our Ancestors. In a few, this means general and honest fright; in many, it means faction; in by far the greatest number it only means that they are very unwilling to part with their old power.

23d April 1831. Parliament is dissolved, and Jeffrey has started for Edinburgh, with as much chance of success as any liberal man can ever have with the town-council of this place. The dissolution is a necessary measure. Ministers, trying to do with the timber duties what their predecessors had planned doing, were defeated by the opposition of these very predecessors. They only carried the second reading of the Reform Bill by one vote, and on the 20th instant they were defeated again on the motion not to diminish the number of English members. These symptoms gave prodigious joy to the Opposition, and great alarm to our friends, who had no hope but in dissolving. It seemed doubtful if the king had firmness for this, but the mail of to-day dissipated all doubt; and to all human appearance the great measure which has been carried by the country will be speedily carried in Parliament. Had it failed now, and Ministers resigned, there was only one way of escaping a real revolution. Peel might have returned to power, and passed this very Bill, or one still more popular. However extraordinary this may seem, it is not without precedent in his public life.

The people, as yet, are conducting themselves admirably. They have no prospect of getting all that they desire; but satisfied that they get so much, they are content, and have given their hearts for the present to their rulers, and left intemperance of language and conduct to their opponents of the higher ranks. These opponents have availed themselves to the full of their privilege. Their conduct has been ludicrous and shameful, affording the clearest proof of the absolute necessity for thorough reform. Not one of them, six weeks ago, admitted the use of any change whatever. Everything was perfect. Now they all admit *some* reform to be proper, but never say what. Almost every county has met, and generally with the same result. The freeholders, Justices, and Commissioners of Supply have been called, to the exclusion of tenants, heritors, and the real county population. Even at these meetings their majorities have not been great; they have in no one instance been defended by any speech or pamphlet of any merit or interest; and in some cases the total number present was so small, that when Kennedy gave a list of them to the House of Commons he practically extinguished these contemptible convocations. What was called the county of Moray consisted of nine persons, which was three more than the county of Selkirk, where six were unanimous against being joined to Peebles, and equally divided on everything else. The minorities, though

defeated at the monopoly meetings, always called more general ones, and there—as everywhere where reason has a chance—the cause has prevailed. In all towns it has prevailed nearly unanimously. Worse cannot be said of the conduct of the majority of the Scotch members than that it has been worthy of their constituents. Let it be judged of by one fact. New members have been conceded to Ireland and to Scotland. The motion, on the 20th instant, on which ministers were left in a minority, was that the old number of English members should be left unchanged. It was distinctly explained to the Scotch and Irish representatives that this would leave Government no alternative except either to withhold the proffered members from their countries, or to increase the total number of the House, and that of these two the first was the course that must necessarily be followed. So that supporting this insidious motion was just depriving themselves of their additional members. This was sufficient with the Irish representatives, most of whom stood true to their country. The Scotch all professed to be anxious for more members, yet, seeing an opportunity of defeating the whole measure, they preferred this to Scotland, and only sixteen of them supported the Ministry. Throughout the whole struggle most of them have behaved in the same spirit. One of their favourite topics has been the unfitness of the people of Scotland for exercising the elective franchise. Sir

William Rae told the House of Commons that his countrymen never could be trusted with popular election, because they never could assemble without bloodshed. Sir Charles Forbes testified that they were so ignorant that they neither knew what reform nor what representation meant; and a noble duke asserted in the Lords that the people of Scotland were only interested in reform because they thought it would give them "free whisky."

The people met and gave many answers to these follies, but none better than the one that was given last night at a public meeting of the workmen of Edinburgh, called specially for the purpose of putting down these calumnies. The Merchants' Hall was crammed with them, and judicious persons who were present declare that the whole business, including speaking, presiding, and everything, was as well done as it could have been in any assembly. Certainly the majority of the Scotch members would have made very insignificant figures at that meeting. Our civic rulers professed to be alarmed, and had all the force civil and military (not forgetting the yeomanry cavalry) out; but in spite of this everything was perfectly quiet. This habit, which the people are acquiring, of holding large and orderly meetings, is one of the most impressive marks of their state. For the last three days, while the result was doubtful, there have been from 2000 to 5000 persons wait-

ing the arrival of the mail at the post-office. The same excitement prevails everywhere, but it is never accompanied by any violence.

The Scotch bill was originally drawn by me, but in doing so I had no personal experience of popular elections, and had got only a few general directions; and I was prohibited from consulting any mortal except Jeffrey, who was in London. There were many points moreover on which Government was doubtful, and no drop of the subsequent ocean of objections had or could have transfused. Jeffrey had to add the muscles and nerves, and many even of the bones, till at last the sight of the original, and of what it speedily became, reminded me of Sir John Cutler's stockings. As to the burghs, there has never been a moment's doubt that the shameful elective monopoly of their town-councils must be utterly destroyed. In introducing the bill, the occupancy of houses worth £10 a year has been taken as the criterion of fitness to vote, because this denotes a safe class, and has accordingly long formed the line in our police bills. The same principle has been applied to counties, only in these property has been required—not mere occupancy, and houses have been recognised. This is the part of the scheme at which our country gentlemen are naturally most angry. Their object is to keep up the qualification, and to keep it among themselves, and they are frantic at introducing houses, which they say sacri-

fices the landed interest to the villages. There is nothing in this, but all pretence of complaint is taken away by letting in tenants. Yet it is curious how many landlords are hostile even to the admission of tenants, which gives one an odd idea of the state of the relation between tenant and landlord in this country. Having got the qualification, the great object has been to increase the proportion of burgh members to county ones, instead of keeping it, as fixed at the Union, at fifteen to thirty; and to prevent some large towns, such as Leith and Paisley, which form no parts of any districts of burghs, from overwhelming counties. For this purpose Aberdeen, Dundee, Glasgow, Paisley, and Greenock have each got a member to themselves; and other towns, such as Kilmarnock and Peterhead, have been put into districts. This admitted improvement has required us to get more members, and to save two of our old ones by quashing the set of mean Fife burghs, and by joining Peeblesshire and Selkirkshire, which, when united, have only a population of about 16,000 people. I wish to quash more burghs, and to give only one member to Caithness and Sutherland. The system of counties sending members alternately, whereby one of them always remains unrepresented, has been put an end to. A few friends of the measure have been anxious to get at least one member for the four universities, but it won't do. It does in England and Ireland, because their

universities have great and respectable constituencies. In Scotland a Master of Arts is no high honour. It implies no pecuniary or permanent connection with the college, and no importance is attached to it in the opinion of the country. According to the last accounts, there are not above 450 or 600 Masters of Arts in Scotland, above two-thirds of whom are ministers and schoolmasters; besides, I don't think that in itself politics do any good to any college.

The main defect of the plan consists in not extinguishing more districts of towns, and throwing the burghs into the counties, even though this had led to giving some counties two members. Clustering a number of unconnected towns together makes a bad constituency. Every member should be member for one known and visible place; but this is one of the many sacrifices we have been obliged to make of principle to management. Every encroachment on vested right has produced formidable opposition, and we have been obliged to leave out, to bring in, and to classify towns, and to keep them off counties, merely to avoid shipwreck. The cardinal points of our machinery are the Register, the Sheriff's annual revision, and elections closing in two days. In order to avoid the multiplication of registers, and the delay of referring to them, I have made the parties get certificates of registry, the exhibition of which entitles them to vote; but this is not English, so it won't stand. I have put in a very

limited, and strictly guarded and handy reference to one Judge of the Court of Session on matters of mere law. This is perhaps necessary to keep the law candid and uniform, but for the same reason I have no hope of its being left. The English managers predict that the law will prove a dead letter in Scotland, because we propose not only to trust the people to register themselves, but to make them pay a fee of 2s. or 2s. 6d. for getting this done. But we have no overseers of the poor, and no county rates like them, and there is no other course. Besides, those who won't stir themselves and pay don't deserve the franchise. In spite of all the defects of the plan, what a boon it is to Scotland! It is giving us a political constitution for the first time. The Revolution did not do more for England.

4th May 1831. Robert Adam Dundas was yesterday elected Member of Parliament for the city of Edinburgh in opposition to Jeffrey. This was probably the last election that the town-council of Edinburgh will ever have it in its power to make, and they have gone on consistently to the last. Mr. Dundas is a relation of Lord Melville, and known to Edinburgh solely from his name; but he is a respectable young man and a keen Anti-reformer. The people were unanimous in favour of Jeffrey. Almost all the public bodies, including the Merchant Company, the

burgesses, the convenery, and the corporations, petitioned the council in his favour; and on Saturday last there was an admirable public meeting in Rose Street chapel, where an address of thanks was carried to the king for the dissolution, and an earnest application to the town-council in support of the Lord Advocate was resolved upon. This petition was only voted that day at about 3 o'clock, and on Monday evening it was signed by about 17,400 persons. There was no recommendation of Mr. Dundas from any quarter. The business of the election commenced by presenting and reading these petitions; and the result was that the council, by a majority of 17 to 14, elected Dundas. No proceeding could be better timed. It is invaluable both for Parliamentary and for burgh reform.

The Lord Provost had the folly to walk down the middle of the High Street unguarded, through a great crowd of angry and disgusted people, within five minutes after the election was announced. He was hustled and abused of course, and was at last obliged to take refuge in a shop. This miserable success excited the blackguards to throw stones. Soldiers were sent for, and during the rest of the day and most part of the night there was some rioting, which will supply the Anti-reformers with another authority for their favourite prediction; but the truth is that, considering how shamelessly the public was insulted

by the election, it is rather to the people's honour that they were so quiet. The mob was not half so furious as the Tory peers were in the House of Lords on the day of the late dissolution. The day before this scene was performing in Edinburgh, another was performed in Glasgow. The whole people in that place and in the adjoining towns walked in procession into the Green, divided into their crafts, societies, villages, and parishes, with colours and emblems. It is stated that, including spectators, there were perhaps 80,000 or 100,000 persons at least assembled, with about 500 flags and 200 bands of music. The Magistrates (as a matter of policy) assisted, and the head of the police, mounted on a charger, marshalled and directed the masses where to go. When the gathering was complete, a Mr. Macaulay, one of the Trades' Committee, got into the chair which was raised on a platform, and various resolutions, chiefly in favour of reform and the king, were passed, after which the ocean broke into streams again, and the march homewards was begun; and the immense host disappeared under its separate roofs, not only without violence but with perfect order and good humour.

In themselves, these details are very immaterial, but they are important as explanatory of the feelings of Scotland during this great struggle. The bubbles on the surface show the agitation of the current below. History will preserve the general public occurrences,

but I should regret hereafter if I had no note by which the otherwise perishable incidents that evince the opinions and passions of the passing day could be recalled to my recollection. The people of Scotland have probably never been in a state of greater excitement than now, or for a greater object. In a few years all will be still, and the very traces of the present feelings are liable to be forgotten. Everything that tends to mark them is on this account worth perpetuating.

1st June 1831. Our Scotch elections are now all over. The result is that the burghs have returned 11 Reformers and 4 Anti-reformers, the counties 13 Reformers and 17 Anti-reformers; in all, 24 for the bill and 21 against it. This majority of Reformers is the effect of popular opinion and of ministerial influence combined, and nothing but both could have produced such a result out of such materials. There has been more rioting at the elections than could have been wished, but still there has been less over the whole country than what commonly takes place at any one contested election in England. But the Scotch are bad mobbers. They are too serious at it; they never joke; and they throw stones. Inexperienced in popular assemblings, and not allowed to express their opinions regularly along with their superiors, they never move for a popular lawful object, but solely because they are very angry; and then having

no self-discipline, soldiers are freely called in, and this increases the bitterness. An English mob exhausts itself upon itself, either in blows or in fun; a Scotch one acts because it hates its victim, and contains no corrective of its excesses in its own elements. Still the only real wonder is how the people have been so quiet.

5th June 1831. The sixteen Peers are now elected also. They have sent up four known Reformers. It is without example that they should have sent up twelve, or the fourth part of twelve, hostile to Government; but they are not quite satisfied that this Government is to stand. They are bigoted against Reform, and for the first time this Whig ministry has declined to direct their votes by a house list. They have been left entirely to themselves, and the result is that, under the skilful manœuvring of that cunning old recreant Lauderdale, they, to their own alarm I daresay, are in opposition; but if it be convenient they will soon be in a more natural position.

21st August 1831. The Reform bill has been going on so slowly and so dully in its endless committee, the people have been waiting with such resolute patience, and the weather has been so delicious, that I have had nothing to say. The summers and autumns of the most superb steady splendour that I

can recollect were those of 1810, 1813, 1818, and 1826, but this one surpasses them all. We have had nearly three unbroken months of days and nights worthy of Paradise. What a scene the neighbourhood of Edinburgh is on a glorious August day, when the wood, and hills, and town are contrasted with the rich ripe crops, and the distant fields on the Fife and Ochil Hills are brought out by their bright colour; and the city stands in the midst of its rural gorgeousness, undisturbed by courts, or public dissipation, or turmoil of any kind, but teeming with strangers, and clung to by the studious who know how to use its autumnal peacefulness! I have taken to walking along my terrace daily at sunrise.

The people have been surveying the proceedings in the Commons with intense interest, and though they have said little, it is quite evident that the question of substantial reform is carried, and that, if this Reform Bill should be rejected by the Lords, we are not very far from a revolution.

2d October 1831. On the 7th of September I went to visit in Renfrewshire, and on the 8th saw one of the great Glasgow processions, being one which took place on the occasion of the coronation of William IV. the reforming king. It was a magnificent and gratifying yet fearful spectacle. All the villages within

many miles were in motion early in the morning, all pouring with devices and music into the Green, which was the great focus. I went to a window in the Court-house about eleven, and saw the platform erected for the managers, and all round it an ocean of heads and banners. I afterwards took the pains, through the police and Cleland, the Glasgow statist, and the chairman of the operatives, to ascertain the facts, and I don't believe that there were, including spectators, fewer than 100,000 persons on that field. An address was moved to the King, but I heard no articulate sound; and then the mass broke down into the portions that were to go in procession; and the rest streamed away to see the passing sight. I went with the local authorities to the Provost's house. He lived in St. Vincent Street, out of the intended line, but they deviated in order to testify their respect to him. Indeed it is one of the pleasing or (as it may happen) alarming features of these modern movements, that the people completely understand how much their force is increased by being orderly. All their plans were previously explained to the authorities, and whatever was objected to was changed. The procession took above two hours to pass, walking four abreast. Those engaged were about 12,000. They were divided into crafts, parishes, towns, mills, or otherwise, variously and irregularly, each portion bearing its emblems and music. The carters to the

number of nearly 500 went first, mounted, their steeds decorated with ribbons. They were arranged according to the colour of their horses, and in honour of the administration the greys led. Then followed a long and imposing host in the most perfect order, all cheering the Provost as they passed, and all splendid with music and decorations. The banners were mostly of silk, and every trade carried specimens of its art, many of which were singularly beautiful, consisting of printing-presses, harpsichords, steam-engines, steam-vessels, looms and all sorts of machinery, all working, and generally with glass sides so that the working might be seen. The interest of these really exquisite models was not diminished by the countless efforts of grotesque wit with which each craft endeavoured to make its calling emblematic of the times and of the cause. Nothing surprised me so much as the music, even though I had been previously told that there was scarcely a mill or a village without its band. There could not be under fifty really good bands, generally consisting of about fifteen performers. King Crispin was to the eye fully as glorious as George IV. when he entered Edinburgh. His retinue consisted of about 500 persons arrayed and arranged in mimic royalty, and all really splendid. No description of workmen was too high or too low for the occasion. The chimney-sweeps walked, and so did the opticians. Though there were groves of

banners, we could only detect two tricolours, and these from their accompaniments were plainly not French in their principles. I did not observe any honour done to Hunt, and only once or twice to O'Connell. Beyond the disposition in favour of Reform, which was the object of the whole thing, there was nothing more popular than what might have been seen among the higher classes, and on any other occasion; almost every inscription or device was dedicated to Earl Grey, Lord Brougham, Joseph Hume, Lord John Russell, etc., and to reform, economy, peace, the king, and no burgh-mongers. Supposing (which was said to be the fact) that all Glasgow and its adjuncts had been idle for three days, it was computed that this exhibition had cost above £100,000. This is plainly extravagant, but its expense must have been very great. There was no soldier on duty, and no police officers except a few who were assisting, yet I never saw a populace in such order, or rather in such perfect good humour. Mrs. Cockburn and I walked with two children through the main streets with the utmost ease, and were even allowed on leaving the city to cut the line of the cavalcade by crossing it with a carriage, without a murmur. No excesses occurred during the whole day or night.

Such scenes are now common everywhere; every village accustomed to meetings and processions; and men arise and take the lead in every section, who

evince talents and powers of speaking which will evidently soon make them cease to belong to the lower orders, if the established system were to be be broken up. All this is gratifying as it marks an intelligent population, but it is fearful by disclosing the formidableness of organised popular power. All attempts to suppress or despise it must fail; and the true result is so to govern that the strength of the people may be on the side of Government, which I see no reason to doubt it may be, and to an extent far beyond what it ever could be with a population ignorant and without political rights or the desire of them.

On the 10th of September I received a summons to repair to London to assist in completing the Scotch Reform Bill. I set off from Glasgow in the mail on the 14th, and returned yesterday. The Bill is not just what I would have made it, because it still leaves too much power to the landlords; however, it is everything for Scotland, and almost all the changes that have lately been made are calculated and intended to extend the great general principle of letting in the people on an easily attainable yet safe franchise. We have now got three members in addition to our former fifty; the chief immediate use of which is, that by enabling us to save the East Fife Burghs, to let Peebles and Selkirk retain their separate representation, to give the town of Paisley a member, and one

to the county of Bute and Arran, it has abated all objections except of those who would have no reform at all.

The minister I saw most of was Lord Althorp, the Chancellor of the Exchequer. Every one admits and admires the candour, plainness, sense, and honesty of this most excellent person; but I was much struck with his talent. I had some opportunities, one especially, of hearing the sentiments and the tone of our Cabinet ministers; and if all governors be like them, the common sarcasm at the cunning and selfishness of politicians is extremely unjust. It is impossible for the public declarations of any men to be more in unison with their private feelings than theirs seem to be. Their confidential and unguarded language and views might have been revealed to the world without any blot being found more than in their Parliamentary statements. They may be wrong, but their purity and honesty cannot be questioned. I sat during the last stage of the English bill twenty-seven hours in the House in three nights, during which time I heard a very great deal of excellent conversational speaking, and very little good speaking of a higher class—certainly not three hours out of the whole twenty-seven. Macaulay's was by far the best, chiefly from its deep thought and extensive views; but there was nothing, not even from him, which gave me any idea of noble eloquence—nothing which realised or tended to rea-

lise the sublimity of minds overpowered by words. Chalmers would be a thunder-bolt among them. Peel's was said to be his best speech. In diction, and in many points of manner, it was admirable. He greatly aided the Scotch case by demonstrating that our existing system, by invariably and necessarily giving up forty-five members to the *pleasure of Government*, operated as a check on the popular freedom of England—a very just but rather an imprudent statement. He wanted to show that even the unreformed Parliament was too free, and that it was only made practicable by its defects and corruption—the Scotch members damped the fire, or at least put out the votes, of an equal number of independent Englishmen.

14th October 1831. The intelligence of the rejection of the Reform Bill by the Lords reached us on the 10th inst. The people had been waiting daily in thousands for the arrival of the news. On that day there were not under 8000 or 10,000 people at the Post Office; and this was the scene at every post office in Scotland. The enemy believed and wished that the people would fly into acts of violence, but nothing of the kind has happened. After the first shock they separated in silence; their feelings are far too deep, their resolution to succeed too determined. Meetings are being held everywhere. There was one in Edinburgh to-day, which did well. Rutherfurd

made an excellent speech—his first public one of the kind. The resignation of ministers, which is what the Lords were foolish enough to expect, might be the signal for general disorder. If they continue in office a few months the bill will be a Statute.

14th November 1831. The whole country is still in a most excited and uncomfortable state, but disgraced by no violence. Political unions have been very generally formed. The Edinburgh one, with Brodie the editor of Stair and the refuter of Hume the historian at its head, held a meeting of about from 4000 to 8000 upon Arthur Seat. These scenes are now quite common, and people are everywhere familiarised to great meetings in the open air, guided by men banded together and organised associations, and to hear things discussed—such as the use of bishops, the refusing to pay taxes, and the propriety of arming, which till now they would have started at even thinking of. As yet, however, the unions are avoided by the prudent, and are chiefly composed of the poorer classes or wilder spirits. They are useful at present, because whenever they have been established the peace has been preserved; but they are most dangerous engines. If their force be once experienced they may easily be applied to all other questions. But I suspect that all that well-disposed men can do at present is to try to manage, not to attempt to suppress them.

17th November 1831. Two days ago I was elected rector of the College of Glasgow.

24th November 1831. On the 21st instant the anti-Reformers held the first meeting they have yet ventured on in support of their creed. The requisition invited those alone who agreed with them. The people very foolishly disregarded this, and attempted to get into the room, and were most justly kept out. If they had got in they would have swallowed those they found there, for the latter were, after every exertion, only about 800—the former at least 3000. This meeting is reckoned a great triumph, a synod of gods; but it was only a well-packed meeting of respectable Tories, composed of all the old remnants. The judicious among them feel the contrast between the ancient days and the present, in which Toryism is obliged to skulk by back doors into a guarded room, and even then, though met to oppose reform, cannot produce a twentieth part of the population or a third part of the middle ranks.

13th March 1832. Alexander Irving, Lord Newton, after enduring the worst possible operation of lithotomy with the greatest possible courage last January, died about ten days ago. No man ever rose so much above expectation after being made a judge. The poverty of his manner would probably have

prevented his ever shining where he had to manage a jury, and I am not certain that it would have enabled him to deliver publicly even a legal argument with much judicial weight or luminousness, especially in a court with other judges; but as a single judge in civil causes, deciding by written leisurely judgments, he was perfect. An acute and well-instructed understanding, great knowledge of law, general intelligence, especially in science, a laborious patient manner, admirable listening, only broken by short judicious interrogations, perfect serenity, complete candour, and a devotion to his business — these qualities account for the high judicial station he attained. His office dies with him under the late reduction.

12th April 1832. This day I bought my first pair of spectacles.

26th April 1832. There was another Reform meeting held here on the 24th—the greatest that ever took place in Edinburgh. The occasion was the carrying of the second reading in the Lords by an alarmingly small majority. It was held in St. Ann's Yards, the field immediately to the east of Holyrood House. The Trades assembled in the Meadows, and walked there in procession with banners and music, and when the whole were convocated

some calculated there were 20,000, and others 60,000, present. Including all who were there as spectators, and considering the space that was jammed with bodies, as well as the countless ridges that were perched upon by scattered groups, I suspect that the latter computation is the one most probably correct. Murray was in the chair, which was placed on a platform holding about 200, where there were all the usual leaders of the people. No one thing occurred throughout the whole day to excite regret. All sorts of Reformers sunk their differences in the common object. There was no intemperance of sentiment or language, though these have been imputed; not the slightest disorder either at the meeting or in the town. It has made a great and salutary impression. Some blame the respectable Whigs for acting with mechanics and Radicals, who, they say, will learn their strength and abuse it—a paltry and miserable error. The opinions of the great majority of the lower orders here are safe and constitutional, and it is solely in this that their strength lies. Divested of their intelligence and peaceableness, they can have no force and no union. The time is gone in which, whatever might be done for the people of Scotland, nothing was ever to be done by them. Liberal men of rank, fortune, and education are nothing public without the people whom it is their chief duty to guide; and their just

influence over them will always prevail exactly according as the political virtues are practised, and the means of enforcing them organised.

22d May 1832. What a fortnight the last has been! On the 11th instant the intelligence of Earl Grey's resignation, which implied the defeat of the Reform Bill, reached us. The host which was waiting the arrival of the mail instantly separated. The very air and countenances of the population were changed. Gloom and resolution were on every face and in every heart. Indignation was added when it was *reported*, however absurdly, in about two days that Wellington, after getting the late Government dissolved in consequence of its insisting on carrying the bill, was willing to take its place on condition of advocating a measure not very unlike the one which he had for two years proclaimed to be revolutionary. Another public meeting was held in St. Ann's Yards on the 15th instant, at which there were probably 30,000 present. Sir Thomas Dick Lauder presided. There were two meetings at Glasgow, one containing about 30,000, and one above 100,000. There was a similar movement in every parish. Gratitude to Grey, determination to maintain their rights, proposals (never carried) to pay no taxes, and petitions to the Commons to stop the supplies—these sentiments were universal. Yet the people behaved with perfect obedience to the laws.

There was not only no rioting, but scarcely even any disrespect. Their demeanour and language was far more decorous than that of many peers in the Upper House; but it was a terrible moment, for they were quiet solely because they knew that this was politic. If the success of Wellington, who has been associated in their imaginations with the days of military government, had made it expedient, it would have only required a sign to make them rise in arms everywhere. But for the restraint of the Whigs, who everywhere put themselves at the head of the people, revolution would unquestionably have broken out, even before the lapse of his abortive week made it certain that Wellington could not stand.

I never before actually *felt* the immediate presence of a great popular crisis. I advise nobody to create it. The fearful part of it was the absence of riot. There was nothing to distract the attention, or to break the terrible silence—nothing but grave looks and orderly public proceedings, unconquerable resolution, and the absolute certainty that if any accident had made resistance begin anywhere, it would have run like an electric shock in a moment. A feeling of personal painfulness was given to the public alarm by the conduct of those who were hostile to reform, and who, seeing their destruction in this bill, gave themselves up to fury and despair—feelings not unnatural in their situation, but which took away from the struggle the

ordinary character of a party contest. The political atmosphere was calm, but heavy and oppressed with the lurid sulphury feeling of a coming storm.

Things were in this state when, on Thursday, the 17th instant, we heard here of Earl Grey's recall. Loud was the popular joy, most grave though grateful was the relief of observant and calm men, who saw the country unexpectedly delivered from a crisis more painfully interesting than any that had occurred in Britain since 1688.

6th August 1832. The regeneration of Scotland is now secured! Our Reform Bill has become law. Much follows from this one fact. Nobody who did not see it could believe the orderly joy with which the people have received their emancipation, or the judgment with which they seem inclined to use it. They are preparing to exercise their franchise for the first time, and under forms to which they are strangers, with great zeal, but with sound sense and perfect peacefulness. The Tory party, as such, is extinguished. They are fighting, and obstinately, for their favourite object of resisting change and keeping down the people. But though those ends are in their hearts, they feel that they are untenable, and that the people themselves are henceforth to be the chief avenues by which power is to be reached. Accordingly, *every Tory candidate, without exception, is professing popular*

opinions. In a few years the Whigs will be the Tories, and the Radicals the Whigs. It is between these two that the struggle will henceforth be. The Whigs are predominant at present. I scarcely expect above three, perhaps only two, of the Radical party to be returned to next Parliament from Scotland, and not many Tories. The future effect of the rise of the people remains to be seen. Much will depend on the state of France. Good order there will probably lead to it here; but if a republic—the favourite project of the wrong-headed there—were to prevail, the rise of the people here would acquire a new aspect.

The most important contests going on are in Perthshire, Mid-Lothian, and the city of Edinburgh. These two counties have long been preserves of illiberality, and their being gained is chiefly valuable as a test. Lord Ormelie is the popular candidate against Sir George Murray in Perthshire; Sir John Dalrymple against Sir George Clerk in Mid-Lothian. In Edinburgh Jeffrey and Abercromby are opposed by Blair a Tory, and Aytoun a Radical. The latter has no chance whatever, and the former not much. Blair's only hope arises from this, that his supporters, being of a higher class, will register more freely than the supporters of his opponents. We confident projectors of the people's avidity to vote are a little mortified at their registering more slowly than we boasted they would. Our antagonists will very plausibly hold this to be a proof

of the people's indifference to the extension of the franchise; and they would do so justly, were it not certain that there are many of the greatest practical blessings—such as health, knowledge, and competence which are hourly sacrificed to momentary inattention.

11th August 1832. The ceremony called the Reform Jubilee took place at Edinburgh yesterday. Externally it was a beautiful and magnificent spectacle, but its real impressiveness lay in what it denoted. At ten in the morning the various trades and societies in and around the city assembled, with banners, devices, and music in Bruntsfield Links, and ranged themselves in regular order from east to west, with their backs to the south wall. There were about 15,000 of these on the ground. Hustings were erected on the north side of the Links, close by the Meadows, which had the effect of making the spectators, who were interposed between the hustings and the line of the trades, stand on a slope declining towards the hustings, as in the pit of a theatre. The Links were nearly filled—a fact which implies that from 30,000 to 40,000 must have been present, besides the 15,000 in procession. I was not on the hustings, but I saw the ocean when the tide was nearly full. It was a glorious sight, improved by a splendid day in a splendid season. They passed an address to his Majesty, the House of Commons, and Earl Grey, and sang "God save the King," "Rule,

Britannia," and "Scots wha hae wi' Wallace bled." This part of the ceremony was sublime and effective; the last song particularly, which was joined in by thousands of voices all over the field, with the earnestness and devotion of a sacrament. The anti-Reformers had long predicted riot and disturbance from this popular display, and I was officially consulted twice by the magistrates with a view to prevent it. These fond anticipations were disappointed. No regiment could be more orderly; no funeral more decorous; the gallery of no theatre at a merry farce more joyous. I was particularly struck with the number of boys in the procession. One band of them had a banner with the words—"We have gained it in our youth, and we will maintain it in our manhood." They will die before they forget yesterday. The name of Hunt or Cobbett never occurred at all, and that of O'Connell only once, and this was among the United Irishmen. There was one most just black placard, which recalled as great a contrast as the same people could exhibit in the same age. *It was dedicated to the memory of Muir, Gerald, and Palmer!* I knew that the atrocity of their punishment was deeply remembered among a higher class, and I was delighted to see it understood and proclaimed on the street. At one of the district election meetings that were held lately, the solicitor who had defended these men spoke, and contrasted the Lord Advocate of 1794, employed in goading the Court to

those sentences, with the Lord Advocate of 1832, engaged in framing the Reform Bill.

If I were to predict anything, I should prophesy that the restraint practised by landlords over tenants in their votes will induce the ballot; that the £10 franchise will stand; and that in a few years dissenters will not be compelled to pay for the maintenance of the Established Church. It is nearly impossible to exaggerate the importance of what has been done by the first Reform Bill. Everything will depend on its having the confidence of the sound part of the people.

17th August 1832. After fourteen months' duty in London Jeffrey has returned. Before he came away he had an interview with Earl Grey, in which the Minister stated that he intended to save the Lord Advocate from such ruinous attendance in future, by reducing his office in practice to its proper legal character, and devolving a great part of its political functions on another. Nothing could be clearer than the wisdom of this with reference either to the Lord Advocate or to the public.

The Exchequer has died, like our other useless Courts, lamented by those who think that the glory of the kingdom is impaired by the abolition of ancient institutions; keenly defended by the friends of patronage; sighed over by the expectants who look to the law

solely for those judicial sleeping-places; and thought by reasonable men to have lived at least long enough. There are many who lament the disappearance of institutions which reminded us of our old royalty, and attested our old national independence. I sympathise deeply with this feeling; insomuch that if there could be any security that the offices we have lost would have been distributed as rewards to deserving men, I would have been for keeping all of them. Against that nothing could be said except that they were useless and cost a little money. A few comfortable sinecures, when not created, but coming by descent and in connection with historical recollections, make a poor country respectable. Our king, and our parliament, and our nobility have left us, and the capital has a poor church, no trade, and an unendowed college. Our Commissioners of Excise, and Commissioners of Customs, and Judge-Admiral, and Consistorial Judges, and Exchequer with its countless claws, and Admiral on the North Station, and Officers of State, and Justice-Generals, and Lord-Registers, not as now mere names, were gentleman-like things. They must, many of them, have fallen no doubt under the scythe of economy sooner or later, but they would not have fallen as they have done, unwept by the disinterested, had it not been for the use to which they had been long turned; but corruption for the sake of faction was their sole object and their sole effect.

They were a mere price in the hands of Government to seduce electors, and the seduction was practised with such atrocious openness and such disgusting success that our lingering reverence for the fragments of our ancient state was lost amidst our indignation at the baseness of which it was productive.

22d September 1832. Scott is dead. He expired yesterday. I had been on a visit at Kirklands to Richardson who, I believe, will be one of his executors; and on coming home to-day I saw Abbotsford reposing beside its gentle Tweed, and amidst its fading woods, in the calm splendour of a sweet autumnal day.* I was not aware till I reached Edinburgh that all that it then contained of him was his memory and his remains. Scotland never owed so much to one man.

5th October 1832. There was a popular meeting here to-day to consider the propriety of erecting a monument to his memory. I expect a glorious addition to our edifices; but we shall have to resist Chantrey and his black bronze, and many foolish projects.

17th October 1832. Cobbett has been giving poli-

* "Call it not vain; they do not err
Who say that when the poet dies
Mute nature mourns her worshipper,
And celebrates his obsequies."
—*Lay of the Last Minstrel.*

tical lectures here. He is on a lecturing tour, and takes a good deal of money. He only discoursed here four times or so, and was very well attended from curiosity, but he has made little sensation and done no manner of ill. A person of his notoriety delivering such discourses in Scotland is striking. Not in 1793, but in 1820, he would have been sent to Botany Bay. The rise of the people in knowledge and boldness is more conspicuous every moment, and makes one shudder at the explosion which it is now evident must have taken place if the Reform Bill had been defeated. But this rise is the cause, not the effect, of the bill.

3d December 1832. Thomas Thomson was this day chosen President of the Bannatyne Club in the place of Scott, and I was chosen Vice-president instead of Thomson. They have got the best possible president for such an Association, and nearly the worst possible Vice. This club is now ten years old, and its success is very odd. It began with about twelve members, paying two guineas yearly, and was the only institution of the kind in Scotland. It has now one hundred members, paying five guineas yearly, many of them having besides contributed costly volumes. It has produced the Maitland Club of Glasgow, the Abbotsford Club, and the Iona Club; and there is as much canvassing for admission into it as for a return to Parliament. Though Scott was its

official head and did it much good, not only by his name but by his knowledge and exertions, yet Thomson has all along been its chief support. It is he who has suggested and elected most of its publications, and if he could last twenty years more he would bring to light most of the hidden treasures of our libraries. We reckon the Maitland an inferior institution, and utterly despise all other book-printing clubs *ubicunque terrarum*. But I believe our contempt is as amply returned as is consistent with a great desire to be one of us. The Maitland and the Bannatyne are the best examples of bibliomania that Scotland has yet exhibited. Very few of us can read our books, and still fewer can understand them; yet type, morocco, and the corporation spirit make us print on, and this quite independently of the temptation arising from the marketable worth of what we get being far beyond what we pay.

12th December 1832. Parliament is dissolved, and the writs summoning the first reformed one are now going throughout Scotland—the near approach of the realisation of our old dreams. This district is divided between Tories, Whigs, and Radicals. The Radicals are dissatisfied because the reform that has been conceded does not go far enough; the Tories fierce because it goes so far; the Whigs, hated by both, moderate, grateful, and rejoicing, though not

unaware of possible dangers in the future. Meanwhile, in anticipation of a poll being demanded, Edinburgh was this morning begun to be marked in various parts by the preparation of polling-places and other symbols of popular election. The most extraordinary of these is the rise of the hustings at the Cross. Edinburgh has rarely seen a sight so striking, so full of recollections and of prospects, as what is implied in those few raw planks. People are staring at them as if they were looking at the ark, cursing or blessing according to their opinions. I should like to hear what the ghosts of the old freeholders are saying. About eleven years ago I happened to predict at one of the Fox dinners that if we stood firm, and agitated, we should see the hustings at the Cross in ten years. This rhetorical flourish was taken up seriously and never forgotten, and I have received great credit as a prophet.

17th December 1832. This was the nomination-day for Edinburgh! At half-past ten some of the committee, and a few friends, proceeded from Jeffrey's house in Moray Place, in about twenty private carriages, to the Merchants' Hall in Blair Street, taking up Abercromby at the British Hotel by the way. The candidates' carriage had four horses, and men and beasts wore blue and buff cockades. There was no crowd, but a good deal of bustle, and some cheers as

we went along. From the Merchants' Hall, where we were joined by above one hundred more, we walked in procession, with banners and music, to the hustings at the Cross. I don't know that I ever felt so strangely as on first getting up to the platform and beholding the sea of heads around. There must have been from 10,000 to 15,000 people there, exclusive of all who crowded the windows and roofs. Sir James Gibson-Craig proposed Jeffrey, and Deacon Wilkie seconded. Adam Black, bookseller, proposed Abercromby, and Andrew Skene, advocate, seconded him. Mr. Francis Walker, W.S., proposed, and Sir John Forbes seconded, Blair, and each of the three candidates spoke for himself. Not one word of what was said by or for Blair was allowed to be heard. The other speeches were as well listened to as they could be in such a crowd. I never saw a public show of hands before, nor was I ever more struck than at the effect of men's hands being twice as numerous as their heads. It makes a flash. The show for the two popular men was electrical, and the palms upon the whole were tolerably clean; nor was there any want of wrist. Everything was quite peaceable and orderly. What a dream did it seem to meet with the Reformers of 1793 and of the Pantheon Meeting on these hustings!

18th December 1832. John A. Murray was nominated to-day for Leith. His rival was Mr. Aitcheson,

who let himself be put up and then withdrew. On this Murray was declared elected, and was chaired from Leith to his house, No. 126 George Street—*the first popular chairing that ever was in Scotland.* It was well done; a gay and joyous procession—music, banners, and devices, and, like all the other displays of the people here, not merely orderly but gentle.

19th December 1832. The city poll is closed—Jeffrey, 4058; Abercromby, 3865; Blair, 1519. It is very remarkable that these numbers are within about 150 of what it was computed and written down by Jeffrey and Abercromby's committee that they would be, on the 20th August last. The consolation of the defeated party is, that they had all the wealth; but so far is this from being the case, that it appears from an exact examination of persons, that their minority in point of property is as decided as in numbers.

22d December 1832. Sir John Dalrymple has carried Mid-Lothian by a majority of about 70 votes—the last and by far the most difficult and important of our local triumphs. It has struck a blow at the very heart of Scottish Toryism. It has excited more interest than any Scotch election.

24th April 1833. The people upon the whole are

behaving well, trusting to Parliament, and waiting patiently for measures which will come, but must be matured. But there is, in the manufacturing constituencies, some unreasonableness, though scarcely more than was to have been foreseen. They expect more than is possible, and everything faster than is possible, and of course they clamour against both ministers and Parliament whenever they themselves are fretful. They are fully aware of the power which they have over their representatives; and the unguardedness of several members, who already repent their election pledges, has enabled them to exercise that power despotically. It is not safe to judge yet of the moral effects of their being received into the representative system; but I cannot help thinking that there are good symptoms among them, and that it is not in mere power that they will be changed. The degradation and bitterness of being insulted by the mockery of elections in which they have no share is at an end; and although their acquiescence in old abuses is broken up, they have no idea of getting them removed except through Parliament, which formerly gave them no hope.

CHAPTER II.

1833-1835.

27TH MAY 1833. The General Assembly for this year is over. It has been distinguished by four things—

1st. It got into its new hall, which was so abominable for seeing and for hearing, that after sitting in it for two days they fled to the adjoining church. So much for leaving the old place.*

2d. The first serious attack in modern times on patronage has been made. The motion to instruct the Commission to get it abolished was rejected by 134 against 33; but this majority arose from its being expected that a measure which failed this year for preventing the abuse of patronage would be carried next Assembly. This measure consisted in giving a certain portion of the congregation a qualified veto, subject to the control of the Church Courts, if it should be made a pretence of. If this motion had carried, I believe that it would have deprived the

* The old "Assembly Aisle," part of the High Church, or St. Giles, in which the General Assembly held its sittings for so many years, had been altered or "restored;" and the Assembly of 1833 met in the altered place for the first time. They left it for another division of the High Church called West Giles.—ED.

anti-patronage case of its growing strength, by satisfying the claims of the people. But it was met by a motion from the moderate side, of a character very injurious to its author. Its import was, that it had always been the law that the people might state any objections, even unacceptableness, to a presentee, and that they might do so still, subject to the discretionary opinion of the Church Courts as to the grounds of their aversion. This had the two defects, that it first implied (as indeed was acknowledged) that the Assembly has for seventy years, during which it has listened to no objection except to legal disqualifications, been defrauding the people of their rights, and then that it now gave them nothing beyond what resolved into the discretion of the Assembly. This motion was carried by 149 against 137, *the minority containing a majority of ministers.* The veto is not without its dangers; but on the whole it is right, being the least dangerous scheme that can be suggested.

3d. The Assembly disgraced itself by an outrageous vote against Irish education. Its first resolution implied that no class of our varied population should get education at the public expense at all, unless they took it along with instruction in the Protestant religion. This was carried by a great majority, made up of a union of religious with political bigotry.

4th. Chalmers, in proposing the veto, raised himself above most modern orators by a great speech. It

was longer than his usually are, and more argumentative, and all his views and statements blazed with the fire of his volcanic imagination. Yet his after all is chiefly the triumph of intensity of manner; for this speech, like many others of his, might be read and even studied without emotion. It is only when his feelings are brought out in his emphasis, in his views, in his curious sentences, in his lofty objects, and in the general look and air of the speaking man, that his oratory can be understood. How he burns! I shed more tears of pure admiration than I have done since they were forced from me by the magnificence of Mrs. Siddons. And every syllable written in his condensed shorthand. I was sitting next him, and stole the adjoining page of his notes from which he spoke with intense eloquence for about twenty minutes. When he was done, and began to collect his materials, he missed this page, and upset all the hats and made all the pockets near him be emptied in search of it. I was obliged to confess the theft, when he allowed me to keep the trophy. And here it is.*—

* [See opposite page.] This is a note which he sent to Lord Moncreiff after his throes were over—

"My dear Sir—I feel the heat so intolerable, and on the other hand the cold of the vestry so dangerous, that I have resolved to go to bed in M'Ewen's, where I can be sent for when you judge that the debate is drawing to a close.—Yours very truly,

"To Lord Moncreiff. THOMAS CHALMERS."

M'Ewen's was a tavern—the Exchange Coffee-house—where no Christian ever slept before.

Facsimile of Dr Chalmer's Notes

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5th June 1833. It would be unjust to this spring not to record its unexampled beauty. Till the middle of April our weather was cold and wet. About the 20th of that month, however, a change took place, and the vernal miracle began and has continued, with only about two days of interruption when the east wind reminded us of its existence, till now. I don't recollect anything like the sudden and steady burst of vegetable life. The thermometer even in April was sometimes at 70. It has been like what one reads of a northern spring, where the end of winter is instantly marked by the flush of summer. Yet human health has been unusually bad. Influenza has prostrated every one.

20th June 1833. It has been generally reported, and believed for some days, that the Tory peers intend to oust ministers by rejecting the Irish Church Bill—the first touchstone by which the Reformed Commons will try them. If they do, a Tory cabinet will be attempted, and it is not very difficult to see the result. There must be a dissolution, for the Commons will be in direct collision with the Lords. This would give the new Government the command, uncontrolled by Parliament, for some months. During this period the country will be under the excitement of a general election, and of an election which it is known involves the fate of the two great parties—the popular and the

unpopular. In this contest the Tories, conscious that it is their last stake, will do everything that the influence of the aristocracy, of Government, of money, and of popular professions can accomplish. This will give them great accession of strength, but they will be met by the people almost in a state of frenzy, who will see that it is not a question between the two ordinary parties, but between them and those whom they think the established enemies of all reform—that is, the perpetuators of all the grievances under which they think they suffer. That in such a struggle the people will always be moderate cannot be expected. The common incidents of popular movements are to be looked for, and these will be too often marked by criminal excesses, denoting and exciting dangerous passions. The result will be that the number of safe Whigs in Parliament will be diminished, and the number of dangerous Radicals increased, and that after all ministers will not have a house with which they can work. No House of Commons that can at present be gathered will do for a Tory Government. The people have been steadily gaining strength ever since the cessation of war stopped boundless expenditure, and Parliament began to throw light upon abuses. All improvement whatever being systematically resisted, every advance has been a victory, till at last success and distress have made the Radicals formidable. The only course to

have followed was to weaken them by cautiously conceding just claims; but this was not the policy of the prevailing party who have made it be felt that Catholic Emancipation, the Abolition of the Test-laws, and the Reform of the Representation—measures which, beyond all others, extinguished intolerance and elevated the people—were entirely owing to Whig wisdom and popular opinion. The people being thus raised to their constitutional place, it was plain that their new got power could only be made safe by keeping them under their old guides, and letting these persons proceed with a thorough revision of every part of our system. Of late this has been actually going on, and hence the people have been quiet, the political unions have died away, and the Commons have been settling the great questions of West India slavery, the Bank of England, India, the Irish Church, the English tithes, local courts, the Scotch burghs; any of which was sufficient to occupy, and to support or wreck any ministry in former times.

But the effects of this sudden interruption on Tory principles and for Tory objects, and the existence of such a Government in reference to the Radical party will be that the King, the Peers, the Bishops and the Church, and all the monarchical parts of the Constitution, will be set up as the natural objects of popular hatred, and that the thoughts and

words of the people will be familiarly directed towards the destruction of these as the sole causes of their unhappiness. They will soon discuss proposals from which they would now start. This introduction of one of the branches of the Constitution as a subject of familiar question is the worst and most inevitable effect of this opposition between the nobles and the commonalty. Then the people will acquire great power by being appealed to by both of the other parties, and by merely holding the scales between them. The Whigs will court them of course, as they have always and naturally done; the Tories will court them too, both by misrepresenting the Whigs and by popular professions which, however insincere, will be Radical in reality. The consummation will be the sinking of the two safe parties, and the triumph of the dangerous one. The Tories are certain to be utterly sacrificed; the Whigs may survive, but it will only be by becoming somewhat Radical. They ought to unite with this party so far as to take its wiser leaders into their councils. Nothing else can save us.

28th August 1833. Well, all this speculation has been superseded for the present. The Irish Church Bill, and almost all the great measures of Government, except the County Courts Bill, have been passed—a result to be ascribed solely to the power of

the people, that is to the dread of them — a fact which the people know. The session is nearly over. Trade has been reviving for some months, the harvest looks abundant, and the Liberal cause is triumphing in Portugal. We shall see the result. My hope is in the gradual removal of the causes of just discontent, and the greater chance the truth has of prevailing from the increased numbers and intelligence to which it is addressed. Every hour demonstrates that the old system must before now have exploded everything.

Meanwhile Scotland has not been neglected or idle. The Burgh Bill is passed, and the self-election of town-councils is at an end.

Some curious symptomatic exhibitions, rather of an Irish flavour, have distinguished Edinburgh against the annuity of six per cent on the rents of houses, which forms the chief fund for the payment of the city clergy. This annuity is nearly two centuries old, and is legalised by various ancient and modern Statutes, and by regular usage. The members of the College of Justice, supposed to be the wealthiest class in the place, have always been exempted. This exemption which has no rational ground on which it can now rest has been long growled at, and during the late canvass all the candidates were obliged to pledge themselves to destroy it. Nothing beyond this was

then thought of, or at least spoken of. Jeffrey redeemed his pledge by introducing a bill to this effect. This was opposed by some of the College, chiefly the Writers to the Signet, because it interfered with their interests. The people, instead of accepting of what was tendered and putting down these attorneys, had the folly to improve the case of these persons by advancing in their demands to a length that could not be acceded to. They found out that no Dissenter should pay—that is, that there should be no Established Church; that if anybody paid, those beyond the royalty should—that is, that country parishes should pay if they formed part of the town; that the minister should only get the seat-rents, which belong to the city creditors; and that no arrears should be paid—that is, that seventeen clergymen should at once be robbed of about £12,000. The result was that the bill was delayed till next session. Meanwhile, certain persons resolved to attain the honours of martyrdom by going to jail rather than pay; in adherence to which resolution several otherwise respectable tradesmen have actually submitted to incarceration, and mobs of people have followed them to or from prison, with music and banners, in glorious procession. The process of imprisoning and of parading is still going on, but it is becoming contemptible and ridiculous in the sight even of the Radicals, as it is odious in the eyes of all fair or rational men. These

processions to encourage resistance to the payment of a lawful debt would formerly have been met by the military and the justiciary, which again would have been remembered in bitterness, or censured from sympathy by respectable persons. Now the people assemble and make speeches, and evaporate. Sane men laugh at them, and the folly wastes itself when the object is absurd. When the object is just, this passive resistance, which is entirely a modern invention, is the most effectual of all engines. It is applied to everything in Ireland, and is now in operation against church-rates and other things in England. It must always succeed where the people have firmness to go to jail in greater numbers than it is safe or possible to send them.

2d December 1833. A few months ago Scotland saw for the first time a popular election of members of parliament; and it has within these few weeks seen the first popular election of town-councils. These two reforms have changed, and will permanently change, the whole country. I doubt if there be any period of our past history at which it was more worth while to have lived than during the first announcement of the late revival of the Constitution, the deep anxiety attending its progress, the almost universal joy at its triumph, the excitement of its being first carried into practice, and the gradual familiarising of

the people to the quiet exercise of their new got rights. It is one of the very few triumphs that liberty ever obtained almost solely by the people, without bloodshed or proscription or violence; without the expulsion of a king or the impeachment of a minister; without infringing the rights of public or private property; and without any change of public institutions beyond what consists in preserving them by the removal of long admitted and long lamented defects. History has few such passages to boast of.

I trembled for the first burgh election; but on the whole I have been disappointed. The people have in general chosen better councillors than were produced by self-election; and it is curious that they have often chosen persons higher in station and in wealth than their predecessors. The great comfort is that all classes are represented, and a legitimate vent given to all opinions. The proportions of the three leading parties I should suppose in any Council of thirty to be about twenty Whigs, six Radicals, and four Tories. For the Church the composition is not so good; dissenters often form the majority. The effect of this on Parliament and on the General Assembly will soon be seen.

9th December 1833. On the 15th of November the four nations at Glasgow were equally divided in voting for the Lord Rector, two being for me and two

for Sir Daniel Sandford, the Professor of Greek. This made it depend on my casting-vote. I was most averse to vote for myself; but I had no alternative, except either to turn the whole establishment upside down by voting that a professor should be rector—that is the governed the governor, or else to ruin the studies of this session by the caballing and the agitation of a new election. I therefore explained my views in a printed letter,* and went last Saturday, and followed the only manly and constitutional course, by voting for myself; and I am now rector for the third year. The case was settled by Fabius long ago (Livy, lib. 24, cap. 9). Some of the professors had protested against Campbell's third election five years ago, on the foolish ground that no person could be chosen more than twice consecutively, and having rashly committed themselves then, they thought that they could not decently avoid sticking to it. So the Principal performed the ceremony of a protest amidst the groans of the boys.

12th December 1833. The close of the first or the opening of the second centenary of the Secession Church was celebrated all over Scotland on the 10th instant. There was a public dinner here of about 400 Dissenters. The tone was bad: not so much joy at their own growth, as dislike of the growth of the

* "A Letter by the late Rector of the University of Glasgow to the Electors, November 1833."—Ed.

Church, from which they differ so little that their object used to be, and ought to be, to remove its errors and to reunite with it, instead of aiming at overthrow in order that they may triumph in its place; less thankfulness for the practical toleration under which they have flourished, than of spite at their brethren for being established; more self-satisfaction at the idea of their being the teachers of the people, than pleasure at the people being taught; the selfish jealousy of sectarians, at the very moment they were boasting of their independence of the State sect.

13th January 1834. The Rev. Dr. Inglis was buried in the New Calton ground in almost public procession yesterday. His absence is a great loss at this crisis of the Church. He was a most sagacious person, whose only great blunder (but, to be sure, that *was* one) was Leslie's case. A powerful debater, and the only leader, so far as I know, of his party, whose opinions were enlarging with the state of the times.

29th January 1834. Jeffrey and I had a striking conference with Chalmers to-day. He has been ill, and I fear that some of the symptoms show a tendency to paralysis. The clamour against the Church which has been raging here for above a year has been taken up and fomented by the Radicals and Dissenters of the town-council, who have come to open war with the

presbytery. Their object is to suppress some of the Edinburgh clergy, and to do various other foolish things, merely to diminish taxation; and in the prosecution of this object they have taken a tone of accusation and abuse which is quite new in this country, even among Dissenters, as applied to the Established clergy. It is very painful and very dangerous. Chalmers of course takes the lead against this, because the tendency of his whole system is to multiply, not to diminish, public teachers. Our conference today was with him and two of his brethren of the presbytery, at his house. He had on a nightcap, loose stockings, slippers, and a grey duffle wrapper, and said he was quite well, bating "a general weakness." This weakness made him lean his head, as he was sitting by the fireside, on the back of his wrists, while his hands held the edge of the chimney-piece; but whenever he had occasion to explain his views, he sat upright and became inspired. I never heard him more eloquent. His face was more cadaverous, his eye more dead, his voice more guttural than usual. But if he were to say what he said to us to Parliament, the Senators would soon feel the eagle in the dovecot. He tells me that he is going to write upon it.

16th February 1834. An odd piece of duty was put upon me yesterday. Certain friends subscribed for a bust of David Hume (the baron, not the histo-

rian) by Chantrey, and offered it to the Faculty of Advocates; and I was asked (by Hume's friends) to move that the gift should be accepted of, and placed in our library. I never thought that I should find myself eulogising David Hume. I specially bargained that I should not be expected to approve of his lectures, or the public principles of his book. This being guarded against, there was plenty to praise, and honestly, and I believe that even his friends were satisfied.

4th April 1834. Scotland is the last country in Europe in which one should have expected an outcry against the Church, because here it is republican in its constitution: it has no corporate property or political privileges; there are no pluralities; no non-resident clergymen; none of them are overpaid; and the religion of the State is eminently the religion of the people. Nevertheless there is an alarming spirit of opposition to the Establishment. Lately, a petition in favour of what is termed the Voluntary Church system, that is, the system of having no Established Church, was presented to Parliament from Glasgow, with about 40,000 signatures, and there have been meetings and petitions from various places for the entire separation of Church from State. These things are the natural results of the spread of the Seceders, the growing hatred of taxation, and the increasing prevalence of opinion against all legal establishments for spiritual

objects. Formerly these things spread, but were under the surface, and were only the more dangerous from not being seen. The times bring everything out now, and our safety lies in the truth being known, though it startles us at first. The great body of the people is plainly attached to the Church as yet, though when a questioning spirit once breaks out on such a subject, its course can never be foretold. The mischief in this instance has been aggravated by accidents; by the clamour against patronage and the Edinburgh clergy, and by the injudicious confidence of the friends of the Establishment in its invulnerability. A declaration, as it was called, was lately sent round for private signature in favour of the ministers of Edinburgh, and was signed by about 4500 most respectable people; but with this exception I am not aware of there having been a single meeting, or petition, or attestation, or public proceeding of any kind, in favour of the Church.

7th June 1834. Lord Craigie (a worthy heavy old lawyer) died about a month ago, and Jeffrey is his successor. The close of Jeffrey's political life is an important event. I am glad for his sake that it is over. His office has subjected him to great personal vexation, and so it must any one who holds it; for it has much responsibility and little power, and it is impossible to satisfy the impatient appetite of people for reforms with which the Lord Advocate has nothing to

do, but for the failure or delay of all which he is blamed. The management of men, however, is not Jeffrey's greatest power. On the 21st of May the Scotch members invited him to a farewell dinner, of which Abercromby (a severe judge, and not partial to Jeffrey) gives this account in a letter to a friend—"Jeffrey's speech at his dinner yesterday was exquisitely beautiful; it was perfect. I cannot say how much I was pleased and charmed with it. Cumming-Bruce and Ferguson of Banff were the only Tories; Sir James Graham on the part of the Cabinet. Nobody did so well as Richard Oswald. He is really a good fellow after all. Your *good* Radical is of the best sort."

The popular Veto on Patronage has been carried in the General Assembly. The practical import of the resolution (which was proposed by Lord Moncreiff) is, that the positive dissent of a majority of the male heads of families, members of the congregation and in communion with the Church, shall of itself be a disqualification. This was carried by a majority of forty-six in a full house. It has been sent to presbyteries for their approbation, but has passed as an interim act. I have little doubt of its being agreed to by a majority of presbyteries; but it will be strongly resisted in the Civil Courts and otherwise by patrons and presentees. If the Courts of Law should overrule what the Assembly

has done, Parliament must interfere; otherwise there will be an indecent collision between the civil and the ecclesiastical power, in which the churchmen will probably stick to their point, even though the spiritual cure should go to one presentee and the temporal benefice to another.

The Assembly of last year admitted all the ministers of the *Government Churches* to all the privileges of ordained ministers; and this present one has done the same to all the ministers of *Chapels of Ease*. These two classes of ministers are, and from their position must always be, evangelical, so that a great infusion of that principle has been made into the church; but it was not seriously opposed even by the Moderates. These proceedings have extinguished the old Moderate party. The fabric which it was Robertson's great glory as a churchman to have reared, and the great object of all his successors in the management of our ecclesiastical affairs to preserve, and which seemed, like Toryism, to be deeply and immoveably founded, has disappeared. The working of the new system I do not guarantee. It is full of danger certainly. I am only confident that it must be better than the old one.

4th August 1834. I have been in rebellion on the subject of the Calton Hill. About ten days ago I learned that the late town-council had given, and the present one confirmed, a grant of the very finest and

most conspicuous eminence to a Miss Short, for the erection of a wooden show-box, about thirty feet high and as many in diameter, in the form of an inverted punch-bowl, which was to rest on a rim of wall six feet high, and to be open night and day for a *camera obscura*, telescopes, and all manner of optical exhibitions. I instantly assailed the council, and excited the press, and agitated in all quarters, and the result has been that the grant is rescinded.*

How difficult it is to create or maintain a right taste for public decoration. We have also been trying to promote Mr. Trotter of Dreghorn's plan for levelling the Mound, and opening up a new street in front of St. Giles's; but I fear this excellent idea is too late.

May and July changed places this year. We had not one day of fog all May, to atone for which we have not till now been one day without it all July. The Firth was not once obscured by easterly haar in May, and was scarcely one day visible for it in July —two facts I never knew before. Between these two there was a June of settled and gorgeous magnificence.

17th September 1834. We have been in a state of excitement for the last fortnight very unlike the usual repose of an Edinburgh September. The British

* They have since rescinded this rescission, and the abominable edifice is rising, though in a less offensive position.

Association for the Diffusion of Science met here on Monday the 8th, and remained till the evening of Saturday. There were as many eminent men of science collected during this period as ever met here together before. Every civilised country sent its representatives.

I thought this a useless institution till I saw it. But I was wrong. It does good in three ways—1. the mere gathering of philosophers, and the consequent opportunities and temptations to confer, is exciting and convenient, and promotes their future intercourse; 2. the discussions in the sections are always upon deep and important matter, and as one hour's conversation does more business than weeks of solitary study and volumes of formal explanation, the results were come to, on key-stone points, speedily and satisfactorily; the sections were the pulses of the body; 3. The evening proceedings brought a crowd together, which, if not instructed, was at least amused by some scientific communication, and this had a tendency to diffuse a growing taste for such subjects. The worst of it is the affectation of science in the tail.

I understand that the sections made them come to their wits' end on several difficult points, but certainly none of the evening discourses, whether written or spoken, not even Sedgwick's, were great. The Chancellor (Brougham) was present on the last day, when they closed in the College Library by several valedic-

tory addresses, before a large audience; and even he has rarely vituperated more intensely at anything than he did, after the meeting was over, at the detestable oratory then committed. He remarked (and said he was gratified) that no Scotchman had exposed himself. He himself made a very good, plain, short speech. On the whole, it is said to have been a successful meeting. They certainly never before got so many new members, or had so many distinguished ones present, or drew such crowds, or made a greater general impression, or were more hospitably treated. The three first days rained in torrents without ceasing. Arago however consoled them by demonstrating scientifically that, however incredible it might appear, the sun *must* shine sometimes in Edinburgh; and though no stranger believed him he had at least the satisfaction of having his philosophy confirmed by the fact, for all the rest of the time was absolutely splendid, and they got to Arthur's Seat, to the lime quarries at Burdiehouse, to the fossil tree at Craigleith, etc. etc.

On the 15th we testified our gratitude to Earl Grey by a public dinner, at which both he and Brougham were present. Brougham had been in Scotland for a fortnight before, and wherever he went was received with great honour. All that processions and addresses and dinners could do for him was done, from the Tweed almost to John-o'-Groat's. He has

neither done himself nor his place any good, however, by these public exhibitions; yet even he has been fairly eclipsed by Lord Grey, whose journey from Coldstream to Edinburgh has rivalled a royal progress. He has literally been conducted in triumph all the way. He was received at Newington, on his approach to Edinburgh from Oxenford, by the magistrates and the trades, who, after a vain attempt by the Radical leaders to prevent them, insisted on turning out in all the glory of banners and music. From Newington to the Waterloo Hotel on Waterloo Bridge he moved through a human mass, all cheering, and as many as could shaking his hand, and almost every ridge, pinnacle, and window waving with handkerchiefs. In point of popular joy, popular attendance, and popular demonstrations, this was a finer spectacle than even the arrival of George IV. Having at length got within the hotel, he and Lady Grey and several ladies got on a platform in the great room, which was otherwise empty, and the freedom of the city was presented to him. He then received addresses, the deputations all remaining in the room, which they soon filled; and then he made one excellent answer to them all. As we had no place large enough to hold the company at dinner, we gallantly resolved to make one, and I doubt if such a structure was ever reared before in so short a period; for in twelve days, three of them one ceaseless torrent, a wooden edifice above 100 feet

square, perfectly comfortable and handsomely decorated, was produced. The floor was matted, the side walls and roof lined with canvas painted and adorned by no less an artist than Roberts, the raw beams which supported the roof made by coloured cloth into beautiful columns; and, in short, the whole interior was as elegant as if there had been no hurry about it. It was like one of the creations of the Arabian Nights. The whole was lighted by gas, chiefly from a splendid lustre taken from the theatre. Including about 240 ladies, there were nearly 2800 persons in this pavilion, as it was called. All got in by sections of thirty ranged in the area, and moving off by ballot without any tumult, and all were well accommodated. There could not have been a more inspiring spectacle. It was the homage of Scotland to its greatest public friend. Our deluded nobles were not there, but their absence only made the presence of others the more impressive.

Our only fear was for Brougham who, it is at present supposed, was the real cause of Earl Grey's retirement by undermining him; and everything that malice could do to provoke explanations—that is, a collision between those two, had been done for several days by the hostile London newspapers. Any explanation of this kind would probably have blown up the meeting, especially as Brougham's imperiousness would have been excited, and in all likelihood justified, by the

violence of Lord Durham, Earl Grey's son-in-law, an able but wrong-headed and wrong-tempered person. Our alarm proved groundless. All Grey's speeches, especially his leading one, were admirable and useful. The most remarkable addresses, next to those, were by Lord Durham, Sir John Hobhouse, and Arago, who spoke in French. Lord Durham was as foolish and radical as any one could be there; talking with scorn of all delay in preparing measures, and of all compromise, which he called "clipping," and attacking Brougham and the Government by these sentiments, not directly, but by plain insinuation. Abercromby was too long, a rare fault with him. All the ordinary Edinburgh talkers drew back, in order to make way for better men. I was not allowed to do so, but I got my toast put nearly last, which made me certain that it would be so late that I might retire (as I did) in time to escape it; and I was nestled in bed at the time when I knew they would be calling for it, which greatly increased my comfort. The bursts of applause to the King and Earl Grey were sublime, as was the chorus to "God save the King!" and to a song made by my young friend Daniel* in honour of Grey, in which the whole audience joined.

This meeting will do much practical good. It is an honour to the country. It shows the force of

* Wm. S. Daniel, son of Phineas Daniel, afterwards Sheriff-Clerk of Dumbartonshire.—ED.

Liberal opinion, and the peaceful intensity of the people in the public cause. This one evening is perfectly conclusive as to the condition of the public mind. No public man, least of all one retired from power, had ever such homage paid to him in Scotland.

The *Times* London newspaper sent down reporters of their own. They left the room at twelve o'clock at night on Monday the 15th, and at one o'clock in the afternoon of Friday the 19th that newspaper reached Edinburgh by the mail with a full account of the proceedings. Post-horses, Macadam roads, short-hand, and steam-printing never did more. They posted up in thirty hours, so that they were in London on Wednesday morning at six o'clock. The paper was thrown off that forenoon, and left London for Edinburgh by the mail that evening.*

I saw a good deal of Brougham during the few days he was here. He is in prodigious force—not in the least changed from his look, manner, or style thirty years ago. The least amiable man, and I think not entertaining, but only because I cannot be entertained where there is a constant dread of some explosion; for what he says is in itself always powerful and curious. He is an instance of the blunders men commit about themselves. He thinks that his power lies in his formidableness—in the terror of people to incur his violence; but in truth that is his

* One of the reporters, I believe, was Charles Dickens.

weakness. Could he retain the esteem of men half as well as he provokes their hostility he would be omnipotent. He has as yet always espoused right public causes, and always displayed talents of the highest order and the greatest variety, yet he has never had any moral influence, but is a mere intellectual machine. Nothing resembling the reverence and love in which Grey and Althorp are held ever came near to Brougham; nor would any charm have been connected with the name of Fox if his disposition had made him think the glory of intellectual force impaired by its union with sweet blood and a soft heart.*

5th October 1834. The tide is setting strongly against classical education. The Grammar-School of Glasgow had scarcely above 100 boys last winter. Our High School has sunk in three or four years from nearly 800 to about 400. The Academy has descended from about 450 to 320; and this, although these

* Sir James Mackintosh says, in his *Memoirs*:—"The address and insinuation of Brougham are so great, that nothing but the bad temper, which he cannot always hide, could hinder him from mastering everybody as he does Romilly. He *leads* others to his opinions. He generally appears at first to concur with theirs, and never more than half opposes at once. This management is helped by an air of easy frankness, that would lay suspicion himself asleep" (vol. ii. p. 345). If this be so, there must be two Broughams in the world; for scarcely an air of insinuation, leading, or frankness, ever came into or came out

schools teach mathematics, writing, arithmetic, English, geography, and French. But these are subordinate to Greek and Latin, and this is enough to sink the schools. Meanwhile, other establishments, both private and public, are springing up now, which as yet have in general succeeded chiefly, as it appears to me, because they disdain those two languages, and profess to teach what they call useful knowledge, which means modern languages, chemistry, civil and natural history, physiology, astronomy, navigation, and in Edinburgh phrenology. All this and everything else is not only capable, it seems, of being taught to *children*, but it is peculiarly easy to them; and the classics, it also seems, are not only not learned where they are professed to be taught, but when learned are pernicious, inculcating an unchristian morality and erroneous taste.

Absurd as all this is, it will probably go on, and I

of the composition of the one I know. He has management and address, I know—if by this is meant plotting; but he is, and cannot avoid being, alarming and repulsive. But, to be sure, I never saw him when his genius happened to be rebuked by Romilly. His voice is singularly sweet no doubt, and the mere manner is often pleasant; but when this is known to be accompanied by tyranny and snarling, by savage sarcasm, by boundless confidence, and above all by the unsparing and wanton sacrifice of friends and their feelings, any occasional gentleness of exterior, instead of being a charm only increases the fearful character of the strange mass.

should not wonder if amidst other new eras we are on the verge of one which will consist in making the languages of Greece and Rome not the staple of our schools. There is some reason for it. They have been our staple *too exclusively.* There is no answer to the question put by those who ask, why *all* boys should be *obliged* to spend *several years* in *attempting* to learn two dead languages, for which they have no *practical* use. And this pith of their case has been gradually receiving strength from other circumstances. People will never long sustain the restraint of a foreign language without necessity. Hence, within my time, Latin has totally disappeared from all our lectures and all our examinations. The three learned professions still require their candidates to *know* Latin, and the Church Greek; but nobody lectures or examines in anything but English, which makes people think themselves more substantially learned without the learned languages, and rears a contemner of them in every individual who holds himself to be educated without them. The old spell, which made the classics and learning synonymous, was broken. Latin was formerly used as the common language among the learned in Europe; but now the increased acquaintance with each other's tongue has made it cease entirely as a mutual vehicle. The minor and provincial learned bodies, the procurators, certain dissenting churches, and the medical corporations, though

they don't always disregard the ancient languages, very often do, and all of them are contented with less of them than the higher establishments require. While the Ancients were thus on a natural decline, pedagogues, instead of keeping them by connecting them with things of practical usefulness, testified their allegiance to the cause of their own importance by a more rigid exclusion of all modern abominations. The dead languages being thus separated from practical education, in rolled the tide of popular knowledge. The old schools, and what were less improvable the old schoolmasters, could not educate the people in what the people wanted; and as they still taught Greek and Latin, this was ascribed to some inherent vice in these languages, which have thus been stormed, in unfavourable circumstances, by all manner of enemies. Infant schools, Lancasterian schools, mechanics' schools, military, mercantile, and scientific academies, scientific lectureships, especially those opposed to colleges, all these, which now abound, profess to do without the classics, and therefore abuse them. Even the Medical Faculty of the College of Edinburgh reported to the late College Commissioners that a knowledge of these languages ought not to be held necessary for a medical degree.

The results of this are—1. That Greek and Latin can't be maintained as the chief object in all schools for all boys even of genteel parentage, and that not

being so, they must gradually go out from common schools—2. That those who still wish to make them the chief objects must associate in higher schools of their own—3. That the want of a long and early steeping in these languages will be a great loss to the public, and to the individuals who vainly imagine that avoiding these is acquiring knowledge of the other things with which they are deluded; or that, if it were, this could be any equivalent for the soul that is lost in the loss of classical taste and elevation.

29th October 1834. An establishment, called "The Edinburgh Association for procuring Instruction in Useful and Entertaining Science," was set up here in 1832, and has lately begun its third year. This and similar institutions are strongly characteristic of the times. It is a sort of popular unendowed college, where lectures are given to all, male or female, who choose to pay either for all the lectures or for a single one. The lectures are on botany, geology, chemistry, astronomy, physiology, natural philosophy, phrenology, and education. They drew in 1832 about £720 from 400 or 500 regular pupils, and had nearly 3000 visitors at 6d. each night. They are on the rise this season. It is a very useful establishment, giving respectable discourses very cheaply to a class of persons for whose scientific instruction and amusement there is no other provision. They are of course contumelious of col-

leges, and are rather more conceited of their knowledge than humble of their ignorance. George Combe is their genius, and consequently phrenology is a favourite and most productive branch. The poor classics are held in utter scorn. In spite of these follies it is gratifying to see hundreds of clerks and shopkeepers, with their wives and daughters, nibbling at the teats of science anyhow.

This George Combe, the patron and expounder of Edinburgh phrenology, is a calm, excellent man, with a clear natural style of didactic speaking and very benevolent objects. Some wise people call him a quack, of which his phrenological pretensions are their proof; but I am satisfied that he really believes in that folly, as many other honest men do. Some allowance must surely be made for the attractions which any creed has to a person whose adventure in it has ended in him finding himself its apostle.

16th November 1834. I yesterday took my seat on the bench of the Court of Session.*

This changes my whole life. I must cast off the old man and all his works. I part with the management of many public causes with a sore pang. In looking through the vista of thirty-four years, which have passed away since I first put on the advocate's gown, I trace a nearly unbroken course of singular

* Under the title of Lord Cockburn.—Ed.

personal happiness; insomuch that every year, except 1818 (when Dr. John Gordon and one of my daughters died, and Mrs. Cockburn was very ill), seems to me to have been the most delightful; and the whole a track of public improvement, so splendid and so solemn, that it will form one of the prominent epochs of our history. I trust that in the little that yet remains I may be able to do my duty. In the management of facts and trials, and the conduct of whatever depends on mere science and practical business or rational equity, I may do well enough; but I tremble for myself in causes of pure or technical law, especially touching real property.

It is now many years since I mentioned my impression of our criminal system. I have since had a great deal more experience; having been, for above twenty years, more extensively employed for prisoners than any other counsel, and having as Solicitor-General had the chief management of the Crown business for the last four years. I think that, now that the Judge does not pick the jury, it is an admirable system, in no respect inferior, and in almost all greatly superior to that of England. The institution of a public accuser, the necessity of a plain intelligible indictment, the allowing counsel to the prisoner as freely as to the prosecutor, and the general strain of good sense which pervades the law, are all excellent.

I doubt if ordinary criminal jurisprudence was ever better administered. In no country are there so few crimes committed or suspected without due investigation, or so few commitments without being followed by trials, or so few trials without conviction, or so little avoidable delay in justice, or inconvenience of which any one accused can complain. This is the excellence of criminal law. Our system has been greatly improved within these few years. A great number of the old technical and absurd objections have been removed by statute. The increase of business has made the Court and counsel more expert, sure, and direct; and, above all, the fatal and disgraceful blight of the presiding Judge naming the jury has been abolished. The only defects not yet remedied, and not capable of being remedied by law, are that in political cases the weight of the Crown may be made to press too heavily on the accused, and that the manner of the Court is not yet what it ought to be. The article which I wrote in the "Edinburgh Review" for January 1824* was written at a period when the Lord Advocate had certainly abused his office, and when the Court was less disposed than it ought to be to obstruct him in that abuse; and therefore it exhibits an exaggerated view of our criminal system, and one which, though perfectly just in the circumstances, is

* Art. v. "Office of the Lord Advocate of Scotland," vol. xxxix. p. 363.—Ed.

not fairly applicable to it when the public officers are honestly doing their duty.

The distinguished men now on the bench are Glenlee, Cranston, Moncreiff, Fullerton, and Jeffrey. The leaders at the Bar are the Dean (John Hope), Robert Jamieson, Andrew Skene (my successor as Solicitor-General), and Andrew Rutherfurd. There are many other rising juniors of all descriptions, but they are all mere lawyers, as indeed both Skene and Jamieson are. My most excellent friend Rutherfurd is, beyond all comparison, the most eminent person now in the profession. He is an admirable and steadily improving lawyer in the highest sense of the word—a general scholar, intelligent in history, political economy and all moral subjects, and of excellent taste. His talents are of a very superior order, guided by a remarkably sound judgment, and constantly improving by cultivation and well-used experience. He sometimes falls into a loftiness of manner which interferes with the effect of his writing and speaking; but notwithstanding this he is powerful in both, and in speaking is capable of strong eloquence. Even these high qualities, however, are far inferior to the excellences of his moral character. His temperament is ardent, but it is the ardour of virtue. No heart can glow with warmer affections or with purer honour; and both in his intellectual and in his moral nature, and indeed in all he does or thinks, there is an elevation of

object and of sentiment which is the best mark of general greatness of character. Of all the men at our Bar he is by far the best fitted for professional eminence and for public usefulness united. His outward appearance denotes a gentleman of good manners and strong sense. He has a remarkably large fiery eye, and a deep sonorous voice. No member of the Faculty would make so good a President, or so good a Lord Advocate.

2d January 1835. Alas! Jamieson is dead! He had been unwell for some time, but was thought to have recovered, when on the last day of the year he fell from his chair while at dinner, and instantly expired. He is a very great loss to his profession, to the Court, and to the public. He was nothing but a lawyer; but was one of a rare order. Not deeply learned, and remarkably embarrassed and ungainly as a speaker, overpowered by a huge blown up figure and look. But his understanding was most admirable, and singularly fitted for legal work; and he was the most candid of all advocates. The quibbles and dexterity and exaggeration of his profession had no attractions for him. His calm solid head disdained them, and had no need of them. He felt that he could do full justice to himself and his client by making the most of the really maintainable points of his case; and what he abandoned as desperate no one ever ultimately gained

by taking up. Even though he had not been supported in this manly course by the soundness of his intellect, I doubt if he could have kept out of it; for it was irresistibly recommended to him by a worthiness of moral feeling which imparted a probity even to his logic. He fought toughly and incessantly (for he was at the very top of his profession), but always with judicial fairness. This union of talent, purity, and good taste in reasoning made him equally valuable as an assistant and as an opponent. In the former position he was a champion under whom success was as certain as was possible, and the battle was sure to be honourable; in the latter he discarded all trash, and brought the case at once to the points on which it was sure to run ever after; and though he alarmed by his formidableness, always delighted by his sense, honesty, and simplicity. These virtues were useful to the Bar, to which they gave one comfortable example of success without vehemence, pertinacity, or venal partiality; but still more useful to the Bench, which saw in the daily practice of this counsel most of the excellences at which Judges ought to aim.

Personally he was sensible, good-natured, honourable, and genuinely modest. I never knew a counsel in whom the profession had more confidence. He could absolutely play with his business; and after a long course of severe regular labour, he had begun of late to do so to an extent that would have ruined any-

body else. But clients, agents, and the Court waited for Jamieson as naturally as for the return of the Session. His character commanded them all. He was always a strong Whig, but mixed little in politics.*

About the time (I believe upon the very day) on which I took my seat on the Bench, the Whig ministry, to the amazement of the whole country, was suddenly dismissed. This event has renewed the experiment of a purely Tory government, and made it necessary for the king to appeal to the people. The result can scarcely be doubted. The Tories, after hurting themselves by discredited professions of liberality, will be defeated; but not until, partly by injudicious and vain resistance to just claims, always accompanied by the acknowledgment in words of the propriety of reform, they have thrown additional power into the hands of the Radicals. After this defeat the Tory party will probably be broken as a dominant faction. Whether the reasonable men among them will then coalesce with the Whigs and the reasonable Radicals, and let a strong good government be formed, or whether they will unite with the Radicals in destroying what owes its chief value in their sight to its being in their own hand, or whether the Radicals are to trample on both

* A tombstone, sculptured by Steell, marks his grave in the Churchyard of St. Cuthbert's.

Tories and Whigs, will depend on many questions. I hope for and expect the speedy restoration to power of the Whig party, aided by all that is moderate in Radicalism, and unchecked by the intolerance of Toryism, without the extinction of which as a prevailing party engine there is no clear safety for this country. I do not think the Radical party so much on the rise as it was, but Dissenters are gaining and the Church losing strength every day. How or under what precautions it is to be done I do not see, but I should not wonder if even in my time religious creeds should altogether cease to be a ground of civil distinction. Meanwhile everything, not excepting the monarchy, is in jeopardy.

The most singular event, even in these times, is the extraordinary and sudden obscuration of Brougham. This, his being out of office and out of professional employment, would a year ago only have increased his influence, but now he is for the first time out of popularity and out of the confidence of his old public friends, in so much that, instead of being the fire of his party and blasting its adversaries by a thousand thunderbolts, he has withdrawn to Italy even in this crisis, and he is abused by some of the Whig newspapers with bitterer scorn than he is even at Court. So far has this gone, that if the Whigs were to be restored it is not improbable that his last cup would

have to be swallowed in the form of an intimation that no place could be assigned to him. If so, history scarcely supplies an example of a more complete prostration. Its proximate causes are at present very little known, but he has always had certain habits very ill-suited for official place, and least of all for the woolsack.

22d February 1835. The new Parliament met on the 19th, and the first thing the Commons have done has been to elect Abercromby as Speaker. The whole country has been looking anxiously to this struggle, the result of which seals the fate of the Ministry. There were 626 members present, of whom 316 were for Abercromby—an unexampled House. The Conservatives, as usual, had misled themselves by vain calculations, and are utterly confounded. They cannot stand, as the next blow, which will be on the Address, will show; but what awaits us in a house with 310 Tories no one can tell. The crisis is every hour advancing, and receiving all the velocity and danger from those who call themselves Conservatives that it can. I doubt whether any thunder-clap ever astounded men more than the news did that arrived here yesterday. The only relief their hearts got was when their dismay was turned into rage at the magistrates for setting the bells a-ringing.

CHAPTER III.

1835.

15TH MARCH 1835. Nothing has of late shocked some people in Edinburgh, or entertained others, more than the reappearance of a regular Catholic nunnery, with its small chambers, its chapel, and its Sisters of Charity. It has been built at Whitehouse near Bruntsfield Links, from funds supplied by old Menzies of Pitfodels, a Catholic Aberdeenshire laird. The house was formerly a private country house belonging to a friend of my father, where I passed many happy days when a boy. The toleration of the Catholics by the people is one of the striking changes of our time. Since I was born their only chapel here was destroyed by the mob (1780); and the secret feeling of most true Protestants for long after was that that was rather a virtuous excess. After this the true old historical hatred of them was aggravated because it was Catholics who made the French Revolution. Their case was next for a season rendered nearly hopeless by being taken up by the Whigs; while the atrocities produced by misgovernment in Ireland were uniformly ascribed

to its religion. Even yet there are thousands of worthy people who not only retain all the horror of their ancestors against the professors of this creed, but would like to see them still persecuted. But this weakness is abating. Its decline is to be chiefly ascribed to the general improvement of the public mind, but it had its proximate causes here besides. It first began to relax in Scotland from necessity. Poor Catholics multiplied so fast in Glasgow and all the west, that it was found absolutely indispensable to educate and civilise them. This familiarised people to their chapels, their schools, and their openly associating; and admitted their priests into measures of public charity. Then came the second visit of the dethroned royal family of France to Edinburgh, which made the popish chapel near the east end of York Place a sort of fashionable Sunday resort. The whole country was overrun by Irish labourers, so that the Presbyterian population learned experimentally that a man might be a Catholic without having the passions or the visible horns of the devil. New chapels have arisen peaceably everywhere; and except their stronger taste for a fight now and then, the Irish have in many places behaved fully as well as our own people. The recent extinction of civil disability on account of their religion removed the legal encouragement of intolerance, and left common-sense some chance; and the mere habit of hating, and of thinking it a duty to act on this feeling, being

superseded, Catholics and rational Protestants are more friendly than the different sects of Protestants are. The nunnery has arisen undisturbed by violence. But many of the wrights and masons, particularly the old ones, feel uneasy at touching it, and often explain that they are mere workmen.

2d April 1835. On the 31st of March, the town-council approved of a report by a committee suggesting projects for the introduction of *manufactures* into Edinburgh! They are good enough to tell us that this would be quite easy. But all sane persons see that the idea of forcing such a thing is absurd, and that, if left to herself, Nature has too much sense to tolerate such an abomination in such a place. Weavers and calico-printers, power-looms and steam-engines, sugar-houses and foundries in Edinburgh! These nuisances might increase our population and our pauperism, our wealth and our bankruptcies; but they would leave it Edinburgh no more.

To be sure our recent decline, which this scheme is meant to check, is very curious. Edinburgh is at present almost a mass of insolvency. Trade, except in one or two branches, has left Leith, our port; its docks are bankrupt; our college has not a shilling; the Writers to the Signet are getting so destitute that it is not easy to see how they can maintain their library and general establishment; the Faculty of Advocates

is in a similar condition, but further gone; most of our charities and other institutions are dying of hunger; the Law, the College, and the Church are certainly destined to subside still more; and lastly, reaching, obtruding, and withering everything, the town itself is prostrate in bankruptcy.

What a contrast with the din and profusion of the town's rise during the war! I see it again. I see the streets and all the villages around glittering and resounding with troops, parades, and reviews; admirals and fleets reaching and leaving the roads; useless offices multiplied under a gallant contempt of every feeling except the expediency of having a place for every man worth being bought; new streets rising every year; resident Peers; civic feasts of municipal and national loyalty; the castle discharging its guns to hail victories; no Whigs with their base economy, their teasing reforms, and their vulgar appeals to the people, or at least only enough of them to give zest to the contempt of their enemies; a triumphant Church, unbearded by railing Dissenters, whose very burrowing places were scarcely known; a High Commissioner, not a noble beggar, but stiff and gorgeous every day with fresh splendour, and processing even on Sundays up the High Street with a long and ceremonious tail, hailed all the way through an admiring crowd with trumpets and shawms; a College so famous and so cheap, that the modern brood of insolent upstart

rivals had not been spawned, and its last century's laurels still green, while Stewart and Playfair, and Monro and Gregory were adding fresh leaves every year; Courts which attracted above 600 practitioners to the Signet, and above 400 to the Faculty of Advocates; everything excited and rose-coloured by the glorious waste under which the nation's and the city's debt grew; nobody thinking that a true balance-sheet must one day be struck, and few men indeed so silly as to risk themselves by suggesting so dull a truth.

A less animated scene has succeeded. But I rejoice that we cannot excite it by steam. We must try to survive on better grounds, on our advantages as the metropolis, our adaptation for education, our literary fame, and especially on the glories of our external position and features; improved by the bluish smoke of human habitation, and undimmed by the black dirty clouds from manufactures, the absence of which is one of the principal charms of our situation.

4th April 1835. Andrew Skene, lately Solicitor-General, died after a very short illness the day before yesterday, aged about fifty-one; deeply and justly lamented by all parties; and this independently of the sympathy always excited by sudden death in the midst of the full activity of life. He had long been very distinguished in his profession; and as I con-

ceive it impossible that the present Tory government can endure above a few days longer, he would have been Solicitor-General again before the period that will be fixed for his funeral, and probably a Judge in a year.

It is a pleasure to think of this natural and most excellent person. A native of Aberdeen, of course he never lost a particle of the accent or manner of that place. Everything about him was granitic, except his heart, which was soft and generous. His talents were very considerable, but had scarcely been exercised on anything except law, and chiefly on its practice; and this in the form of hard argumentation. This necessarily made him more able than sound. Though a strong and undeviating Whig, and always going with his party, he took little charge of its business or of public matters, and mixed little in general society, and thus deprived his powers of the means of improvement afforded by a large intercourse with men and affairs. Nor am I certain that he made up for this, as he probably imagined he did, by the daily intensity of his Greek or Italian reading. For I suspect that his rising at five in the morning, even when exhausted by business, to read Guicciardini and Herodotus was, like his cold shower-bath at that inhuman hour, chiefly a matter of habit, and the result of general taste for labour and self handling. I infer this chiefly from the circumstance that these accomplishments never transpired in his conversation, or produced any

intellectual embellishment or views. His sharp iron accent, made worse by a weak, screaming voice, prevented his being a good ordinary speaker. But he spoke well, and wrote admirably for his profession; for his diction was good, his manner vigorous though constrained, and he was always clear, forcible, and direct; with a manly, honest boldness, containing much of what was powerful in John Clerk, without any of his crazy fierceness.

No wonder that he was a universal favourite, for he had not only a picturesque manner, which always helps to make a good man popular, but was eminently honourable in his principles and conduct, and had a childlike gentleness of heart, which, whenever there was occasion for sensibility or kindness, his rugged outside could never repress.

The Law Commission will feel his loss and Jamieson's severely. These two were constant associates. It is not two months since Skene bought Jamieson's marble bust of Apollo, in order to have a memorial of his friend.

He had a striking countenance; small blue eyes, a long face, an unusually aquiline nose, thin curled lips, and a projecting chin. I would compare his profile to that of Dante, were it not there is another person in Edinburgh who monopolises that resemblance, —being the very Dante.*

* Alexander Young, Esq., of Harburn.

22d April 1835. The first Tory Government since the passing of the Reform Bill, and which only came into existence in last November, has been broken up, and Lord Melbourne and the Whigs are once more in power; that is, in such power as a Tory king and a Tory House of Peers will allow. Murray is again Lord Advocate, and John Cunninghame Solicitor-General; and, on the whole, Scotland is as it was. The Reformers are going on weakening themselves by their unhappy ecclesiastical dissensions. These for the present turn upon a new point. The General Assembly has been asking about £10,000 a-year in aid of the endowment of churches for the poor, where it could be shown that this is necessary. In this request the Church is powerfully backed by all the presbyteries, by all the Tories, by all the pious of the Establishment of whatever politics, and by many who are neither pious nor Tories, but who approve of the Church and think the claim just. But against her there has arisen a hue-and-cry, the like of which Scotland has not seen or heard since the days of the Covenant. All Dissenters who see nothing in the rise of the Church but their own decline, all Radicals who hate Establishments, and some Whigs, too many of whom view the matter solely in relation to elections in Seceder-swarming towns,—those are in arms. The case of the Church consists in the single fact that the population has

outgrown the Establishment. The opposite case consists in denying this, provided due deduction be made of those who do not belong to the Establishment; and in maintaining, as a general proposition, that a voluntary church is the only rational, scriptural, or expedient one. In the exposition of these very simple views, temper and sense have been lost sight of. Meetings, lectures, pamphlets, and placards abound; Government is still free, and therefore the war still rages.

I am clear that no man, not blind, can fail to see that public aid for poor churches is absolutely necessary, even after the Seceders are all deducted; or at least, that a sufficient *prima facie* case of this kind is made out to justify the placing of the fund that is wanted at the disposal of a responsible Board. The Dissenters, in urging the voluntary principle against this, are urging what is repugnant to the principles from which they arose, because they left the Church, or rather declared that the Church had left them, on account of patronage alone, and their parting appeal to the next Christian General Assembly still stands, and attests that the extinction of the Establishment was no part of their creed or object. This portion of their case moreover (being the main portion of it), implies that in deciding on this claim Government or Parliament, instead of assuming, must inquire into the usefulness of the Establishment; and they urge this not so much in the expectation of seeing it done,

as in the hope of introducing a topic, the very discussion of which is in these times injurious to the Church; so that, on the whole, their hatred of the Establishment is greater than their love of religious instruction. They would rather that a sum which has no chance of coming to them should be withheld altogether, than that it should alleviate the religious destitution of the poor through their rivals. The plea that they would be taxed—that is, that they would have to pay the thousandth part of a farthing each, can scarcely be maintained honestly. They are acting exactly as illiberally as those Protestant churchmen are, who would withhold all public aid from the Catholics of Ireland; not that the conduct of both is not perfectly natural, but I should have liked so respectable a body as our Dissenters to have been less sectarian. Yet they will probably prevail. They are too numerous and too united to fail, especially while backed by the emptiness of the public purse.

It is a curious scene. Chalmers, as usual, is vehement for his darling endowment. The parties have regular lectures in attack and in defence of the Church; the public meetings are daily; the pamphlets in showers every hour. We have Voluntary and Established newspapers, itinerant orators, church and voluntary public breakfasts, petitioning prayer-meetings, and all with the usual proportion of ecclesiastical exaggeration, fierceness, and want of charity. Mutual extermination is the real sentiment.

One of the few formerly unknown facts which the fury for exposing each other has brought to light, is the apparent indifference of the lower orders about church-going, as evinced by the extraordinary number of unlet sittings. In Edinburgh, including St. Cuthbert's and Canongate, they amount to about 19,000, of which about 11,000 are in the Established churches, and about 8000 in the Dissenting churches within the same district. It is the same everywhere else, and it is always the cheapest sittings that are most empty. The opponents of the grants say that this decides the case, as it is absurd to endow new churches while the old ones are unoccupied. The friends of the Establishment maintain, with far greater justice, that the emptiness of the existing churches is temporary and accidental, and that it arises partly from that indifference about religion which the continued want of church accommodation has a tendency to produce. The fact, however, was very unexpected, and seems to show that devotion has changed its place and gone to the higher ranks.

May 2, 1835. Brougham is not Chancellor, and has no official connection with the Government. Denman, the Chief Justice, is made Speaker of the Lords. The Great Seal is put in commission; and Brougham's avowed enemy, Lord Durham, is talked of for Privy Seal. I lament this for the Govern-

ment's sake, because I fear it will make Brougham soon emerge as the leader of the Radicals; but I deplore it far more deeply on his own account. What a collapse! The minute history of it probably not above three or four persons know; but its general causes are commonly understood to be the aversion of the Court, and particularly of the King, his want of fidelity to his official associates, his rashness in matters of fact, and his not being so safe a depositary of secrets as a member of the Cabinet ought to be. Enormous faults the last three, no doubt; but all arising chiefly from an imperious demeanour, and a self-confidence which the experience of its results might probably have checked, and which has so frequently accompanied genius that it is often supposed to be one of its signs. The loss of such powers to the public is deplorable; and, considering the temperament of the man, I anticipate some desperate rally, for which I see no gain except in popularity with the Radicals. If it be once understood that all hope of power from the Whig Government is at an end, his whole energies and passions will be devoted to defame it; and as he cannot and need not unite with the Tories, the Radical party is his natural instrument. What an issue for Brougham! When he began his Chancellorship it was usual to compare him to Bacon, little anticipating that the comparison was to be truest in his decline.

12th May 1835. I saw to-day for the first time the second Restoration of Charles II.—I mean of his statue, which has been replaced in the Parliament Square after a sleep in the prison for eleven years. A very respectable piece of Art. The horse had cracked at the fetlocks, but his legs are now mended, and his other frailties soldered, and his inside is sustained by a strong muscular system of oak, so he is expected to defy the weather, and remain sound for another century. The little Parliament Close is now the most Continental-looking spot in Edinburgh.

26th May 1835. The Pitt Club of Scotland have just parted with the residue of their funds in a way that does them honour. They gave about £3000 some time ago for a statue of their deity in George Street, and now they have given the remaining £1000 for an annual prize for the best essay by a student of Divinity, a graceful demise; yet some Whigs are publicly objecting to it because the donors choose to call it the Pitt prize. They had better establish a Fox rival.

8th June 1835. The late General Assembly advanced far towards the destruction of patronage, and I fear went some length towards the destruction of the Church. The principle of the veto, adopted by the General Assembly of last year, and sent to the

country for consideration, being supported by a majority of presbyteries, was this year declared to be the law. So far well; but instead of resting contented with this step, and trying to apply it prudently and inoffensively, a wild and now predominating party enforce it in every case violently and injudiciously. There were, as during the first year of the experiment was to have been expected, several disputed settlements, in which, however, there was not a majority of opponents proved to have expressed their opposition in the regular way. Instead of attempting to allay such opposition, and to defeat it by a judicious use of the rule which required hostility to be expressed in a particular form, these Immoderates took the matter into their own hands, and aggravating every folly of the people, excluded or obstructed presentees, however worthy, against whom any popular clamour was got up. In this way they went beyond the veto, which they openly declaimed against as a restraint on the people, and acted practically on the principle that patronage ought to be abolished. It was gratifying that Lord Moncreiff resisted this folly so far as he could. He had to quarrel and almost to break with his party in opposing it—a severe penalty for this true man, the exaction of which is no slight proof of their extravagance.

Chalmers spoke a long and eloquent written report in favour of endowment. Of course there was no

dissent in the Assembly, but the intensity of the unanimity led to one curious result. As soon as Chalmers had closed, somebody moved a vote of thanks to him; but another member (Mr. George Buchan of Kelloe) thinking this not enough, moved that they should first return thanks to God. Some little discussion arose, which the Moderator ended by reading in a technical style from his paper that the question before the house was whether they should return thanks to Dr. Chalmers, or by prayer to God. On this there was a general and confused cry of "Dr. Chalmers! Dr. Chalmers!" and "prayer! prayer!" when the Moderator declared that Dr. Chalmers had it, and proceeded to eulogise him accordingly, and the prayer did not take place till a considerable time afterwards.

On the whole, calm men have a painful anticipation of the course, as evinced by this Assembly, which the pilotage of the Wild party is putting the Church into. I wish they would change their tack, or at least lay to; but it is plainly an evangelical race between them and the Dissenters, and I do not expect either of the runners to be soon spent. It is very natural and very proper for the Church to improve in zeal, the absence of which has for a long while been the true cause of its decline; but it is very unfortunate that it should be thought necessary in practising this new

virtue to renounce anything that tends to secure the respect and attachment of sober friends.

21st June 1835. The monastic establishment now called St. Margaret's, near Bruntsfield Links, was dedicated last Tuesday the 16th inst., with all the internal pomp that Catholicism can as yet command in Scotland. There were bishops, odours, flowers, robes, good music, etc., etc. The most striking part of the ceremony, however, was the entry of three British (but all English) ladies of good birth and education as novitiates, by taking the white veil. It was all done before a large audience, admitted by tickets, and, including the sermon, occupied about three hours. Scotland has not seen the like for a long while. Indeed she gave the Catholics such a fright the last time she pulled their temples about their ears, that they have never tried to nestle near her since. There are many who would repeat the operation if they could; but there being no outdoor smoke, this soon passed away in peace.

4th July 1835. A royal commission to inquire and report as to the religious endowment and accommodation of the people of Scotland has just been agreed to on the motion of Lord John Russell, the Home Secretary; a wise, and indeed a necessary measure, the natural growth of the rise of the Secession

Church during last century. It will *redd* the merits between the Establishment and the Dissenters. I anticipate parochial ferments all over the country; unbecoming efforts on both sides to magnify their numbers and merits; the discovery of more Dissenters than the Church has been willing to allow; a decided want of accommodation in both sects, both in town and in country; and a very unexpected disuse among the lower orders of any church at all. Lord Minto, a most excellent man, is to be at the head of the Commission.

28th July 1835. Mr. Bannerman and Mr. Oswald, the members for Aberdeen and Glasgow, lately brought forward each a bill to reform the colleges of these places, both of which have been delayed for this session. These are important measures, indeed absolutely necessary, unless it be intended to let the Scotch colleges expire gradually; but it has been very wrong in the Government not to take up the whole subject at once upon the report of the commissioners. These bills are in many respects very questionable, and have given rise to such defence and attack that the chief good I expect from them is that they will compel this to be done. A severe blow I fear awaits all these colleges, but particularly Edinburgh. It is generally thought that the committee which has been long sitting on medical education will

end in the establishment of a Board in London, with power to grant degrees merely on fitness, to be ascertained by examination, without caring where the candidate acquired his knowledge. This may possibly be right, but it supersedes the necessity of college education, and ruinous advantage will be taken of this power of escaping it.

12th August 1835. The learned and excellent Dr. M'Crie died on the 5th, and was buried to-day. He has done great honour to the Scotch Seceders, of whom he was by far the most eminent in literature. Hallam, a worthy judge, says of him in his *Constitutional History* (vol. ii. p. 672)—"It is impossible to think without respect of this most powerful writer, before whom there are few living controversialists that would not tremble, but his Presbyterian Hildebrandism is a little remarkable in this age." There was no Hildebrandism in him except that sort and degree of it which is inseparable from genuine Scotch Presbyterianism. Gregory VII. claimed absolute power, religious, civil, and ecclesiastical, over the world. A Scotch presbytery only claims an exclusive authority over such persons as choose to place themselves under its jurisdiction in regard to the spiritual affairs of their own church. To this extent M'Crie, being a good Presbyterian, was a Hildebrand; and what is more so than an Episcopalian? It was not

wonderful that the biographer of John Knox should have a horror of Popery, which made him except that religion from the usual rights of civil toleration. All his works and opinions recommend charity and mildness.

He was a tall, thin, apostolic-looking person, not known in society, into which indeed he never went; very modest, very primitive, absorbed in his books and his congregation, and, except when there was likely to be a concession to Catholics, never interfering in any public matter. It is honourable to the Church that the divinity students and a committee of the Commission of the General Assembly, which happened to be sitting, attended his funeral.

This meeting of the Commission of the Assembly was held chiefly for the purpose of abusing the late commission of inquiry into the statistics of the Church. The objection to it is, that of the six working and travelling Commissioners, three are understood not to be friendly to the Establishment — a well-founded objection, which I regret the Government did not avoid. It has given great dissatisfaction to the Church, which as usual has spoiled a good cause by violence of language. The Dissenters should certainly have been represented in the commission, but the Establishment ought to have had a majority of those who were to travel and to collect the facts.

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25th August 1835. I am surprised to find that I have scarcely mentioned Sir Thomas Dick-Lauder; and yet for the last four years he has been in the very heart of all our proceedings, in so much that strangers judging from newspapers might suppose that he rules everything in Edinburgh. He does not rule, however; he is only a very active and useful assistant, chiefly at meetings, and as a canvasser. He is the greatest favourite with the mob that the Whigs have. The very sight of his blue carriage makes their soles itch to become the horses. He is one of the persons whose Whiggism is so liberal that it enables him to keep the Radicals in some order. The chief part of his influence, indeed, is owing to his being very much one of themselves; but besides there is something even in the outward air of this representative of old Fountainhall very captivating to any populace. A flow of rambling natural talk; ready jokes; the twinkle of a mild laughing eye; a profusion of grey grizzly hair tossed over head, face, and throat; a bludgeon ludicrously huge for civil life, especially in his powerful though gentle hand; raiment half fashionable, half agrestic; a tall, gentleman-like, Quixotic figure; and a general picturesqueness of appearance. But these things, though it is these by which he is commonly best known, are insignificant. He is in more substantial matters a very accomplished gentleman. His published works, particularly his

account of the *Floods in Morayshire*, and of the *Parallel Roads of Glen Roy*, attest his science and his skill in composition; and he has a general accomplishment in several difficult things. Lauder could make his way in the world as a player, or a ballad singer, or a street fiddler, or a geologist, or a civil engineer, or a surveyor, and easily and eminently as an artist or a layer out of ground. He is honourable, warm-hearted, and friendly, overflowing with equity and kindness. The great friend of Dr. Gordon could scarcely avoid being a very general favourite. Could I recall past days, I would not leave one unrecalled that I ever spent with him, especially at his former paradise of Relugas, at the junction of the Divie and the Findhorn near Forres, where he lived till he came to Grange House near Edinburgh, in 1831. I used to visit him almost yearly at Relugas, one of the most beautiful spots in Scotland; and what a combination of pleasures was there in the kindness and hilarity of that family and in the scenery of that Eden! The long river walks of the forenoon, amidst the glories of the woods of Darnaway and Altyre, and the long evenings of domestic mirth by which each happy day was at last brought to a close.

10th September 1835. The Church has been instructed that neither king nor Parliament have any right to inquire into the working of the Scotch Church!

The ground of this opinion is that the Church is its own master, and is not bound to account for itself to any other earthly power. The result of this is, that they are entitled to ask public money on the statement of certain facts, particularly that there is not due accommodation for the people who adhere to the Establishment; and yet, that when Parliament or the Crown proceed to examine into this circumstance, they are to be told that they must take the Church's word for it. Yet at least two presbyteries have already resolved that that is the true principle, and unless a discovery of the consequences shall bring them to their senses, I would not wonder if it were acted upon generally.*

* And my wonder has not been lessened on seeing the third volume of the *Life of Chalmers*, chapter xxi. (*Life of Chalmers* by Dr. Hanna), which contains an epistle from John Hope—an epistle which the craziest clerical fanatic could scarcely have equalled. The Dean of the Faculty of Advocates gives it as his opinion that an inquiry *by the Crown*, or even *under a Statute*, in reference to a demand by the Church for money to build churches, and "as to how the Church performs its duty of affording religious instruction and pastoral superintendence to the people," is unconstitutional, and "an attempt not paralleled by anything in the reigns of James or Charles I"! Any such inquiry is inconsistent, it seems, "with the divine appointment of ministers." The Church clamours for money because there are too few churches; the Dissenters clamour against this demand, and say that there are plenty churches; yet neither the Crown nor Parliament can inquire into the fact, or, if it be a fact, into its causes! [Written in 1851.—Ed.]

5th October 1835. The second report of the Law Commissioners, and the general and local reports of the Burgh Commissioners, have been lately published. Both are full of matter, and both will give rise to much discussion, and, I trust, to much improvement. The great objects as to the burghs ought to be to deprive the town-councils of all judicial authority, and of as much patronage as possible, to extinguish all petty local privileges and jurisdictions, to confine the general magistracy merely to the administration of the proper burgh affairs, and to secure efficiency and prevent jobbing within this sphere. The Law Commissioners have not come to their difficult work yet. They are only at the judicial officers and the forms of proceedings, on which not a great deal, except in their administration, remains to be done. They have not come to the feudal system. It is dangerous to touch an old house; but the danger of letting it alone is sometimes greater. I am for preserving nothing that is inconvenient merely because it is feudal. Some people think that feudality itself has a charm.

30th October 1835. The burgh report is a very important work, and will long be appealed to on most questions touching our Scotch municipal economy. The mind that prevails over the whole is that of Thomas Thomson, than which no fact could afford stronger presumption of its excellence. But I do not

anticipate much immediate good from it, because Government cannot afford to quarrel with our city authorities or population, and therefore will not vigorously force improvements that are disliked, and especially on a thing so insignificant to them as the government of Scotch towns. And very few changes will be suggested without exciting hosts of opponents. One instance has broken out already. They recommend that the appointment of professors shall no longer be vested in any town-council, which has kindled the council of Edinburgh, against which this would chiefly operate, into a blaze. A bailie (Donaldson), a most excellent and sensible man, has absolutely gained unfading laurels by his eloquence and industry in exposing the errors of these ignorant commissioners. I am clear that the nomination of professors by a board of ordinary tradesmen, called a town-council, though it may be better than an irresponsible appointment by a Secretary of State, has been, and always must be, very dangerous. It is much better than appointments by the Crown in an ordinary political way, and nothing but college jobbing could ever issue from appointments by professors; but still, *in themselves*, the town-councils are not for this work generally. In the public discussion of this problem, the defenders of the existing system, as excellent in itself, have a very convenient advantage. They take their instances from the *right* appointments, and have the pleasure of

complimenting themselves and others by talking of "our illustrious Cullen and Monros," "the eloquent Stewart," "the profound Playfair," and so forth; whereas those of the opposite doctrine are restrained from mentioning the names of the patrons and the presentees by whom the College has been disgraced. Were it not for this piece of delicacy, what a case they could show, not only where the appointments were bad, but where the operation of a corrupt cause was obvious. I could give many examples; and it is such cases that try the system. There is sometimes a degree of eminence which no patron could resist, and which elects itself; but the advancement of plain blockheads, and the rejection of clearly-fitted men, even when there is no corrupt motive, is a truer test, because it must be the result of wilfully ignorant or of profligate selection. At this moment several professors are unfit, and were plainly so when appointed. No doubt it has generally been the crown, in its ministerial local politics, that has led the council wrong, and these bodies are very apt to flatter themselves that now they are reformed they are above regal influence. It is a great error; but, at any rate, are they permanently above influence of a worse sort? And the mere necessity of cultivating them must always be a degradation. What a spectacle to see a man of character and genius going round mendicating the votes of those thirty-two electors! However, they will keep their patronage

and occasionally abuse it. The true remedy is to have a Minister of Instruction, a person in high office, responsible as the known dispenser of educational, including religious, patronage, and with no duty or glory but to dispense it well. So long as the question is between a town-council or a body of professors, and what is now called the Crown—that is, some body connected with Government, but no one knows who—bad as they are, the town-councils are far better. Nothing, however, can in any circumstances be so bad as professors electing each other.

14th December 1835. The town-council, being put upon their good behaviour, have elected Sir Charles Bell to the Chair of Surgery, vacant by the death of John Turner; which single act, they think, proves their fitness to be college patrons. Bell is somewhat aged, but a good scientific name, long accustomed to teach, and certainly the best man that could have been got. It is just about thirty years since he left Edinburgh.

George Moir, advocate, lately appointed by the Crown Professor of Rhetoric, delivered his second lecture, which Jeffrey and Lord Fullerton and I went to hear to-day. He is a very accomplished person. Jeffrey excepted, perhaps the best literary orator now in this country, and immeasurably before his two

predecessors in this chair, though one of these was Blair. He is a respectable classic, well in modern languages, and profound in the literature and philosophy of Germany; which last, however, so far as we have hitherto experienced it in Scotland, rather excites the fancy than steadies the understanding. A defect in his spoken prelections will always arise from the littleness and weakness of his voice and manner, and his irrecoverable Aberdeen accent. The merit of electing Moir is due to his Tory friends. It was done by them when they were in power last winter.

CHAPTER IV.

1836-1837.

28TH FEBRUARY 1836. The beginning of a sad change in the lives of Scotch Counsel and Judges was announced yesterday by the President. He read an Order in Council directing the Lords Ordinary to continue sitting a fortnight beyond the usual time this winter session. The object of this is to enable us to get rid of some arrears, and to fill the Divisions—especially the Second, which are rather empty of cases. The measure is quite right, and has been preceded by many symptoms which ought to have made it to be expected that the extension would have been much longer; but, short though it be, it is long enough to make it plain that the sanctity of the vacation is broken down, and that we are destined to have our six months of freedom no more. Whether we shall hereafter sit ten months or eleven yearly, or every day in the year, is not yet determined, but our six months are gone for ever. Except Jeffrey, Fullerton, Moncreiff, and myself, who are all Ordinaries and direct sufferers, all the Judges are inwardly furious, but out-

wardly struck dumb. Gillies, when he heard that the order had come, said with a sigh of resigned despair—"So it's all over!" The senior counsel, who have as much to do as they can already, are in general disturbed; their juniors, who hope for a few small openings while the leviathans are at trials or in London, are on the whole rather pleased; all clerks indignant; agents, clients, and the public are delighted, very much because they think it will annoy the Judges. It is undoubtedly right, and ought to be, and will be soon carried further. Yet we work more than is thought, when we are contrasted with the English Judges. We never get credit for our labour at home. My business requires and receives five hours every evening except Saturday and Sunday. On the whole, ten hours a day during session is my average dose, and I do not suppose that any Ordinary's is less.

But what signifies this, or the law, or the public? Our vacation is encroached upon; our two months in spring, and the long glories of the four months in summer and autumn, are no more secure. We may be left some part of them, but their comfortable security is gone. We live in a fright. And what vacations they were! How opportune for the place called London for those who liked it in spring, for the Continent in autumn, for study, for the country, for the general refreshment of the soul! O my spring flowers! My roses! The endless succession of birds and of bloom,

from the early half-chilled March snowdrop to the late lingering November carnation! The vernal blackbird, the summer evening, the utter cessation of business, the long truce, the mind's recovery of itself, the relapse into natural voluntary habits. People talk of the surcease of justice—what a mercy for suitors. It is this abstraction from legal business that has given Scotland the greater part of the literature that has adorned her. The lawyers have been the most intellectual class in the country. The society of the Outer House has given them every possible incitement, and the Advocates' Library has furnished them with the means and the temptation to read. What a proportion of our eminent men have been trained in this scene. But had they been worked out by nearly constant professional toil or expectations, or vulgarised by law being the chief object of their lives, they would have contributed no more to the glory of Edinburgh or of Scotland than any other body of legal practitioners. The dispensation of justice, however, cannot be sacrificed to considerations which the public do not understand; and so we must submit to our fate.

17th March 1836. George Brodie is made historiographer for Scotland, in the room of Dr. Gillies, dead. Assuming that it ought to have been a Scotchman, and one addicted to historical study, there could only be two competitors—Brodie and Patrick Tytler.

Brodie has been rightly preferred; and this independently altogether of his Whig politics. For, though personally most conceited and ridiculous in manner, he is able, industrious, honest, and an original inquirer. His refutation of Hume is the best that has yet appeared; and I have no doubt that he owes the honour he has just obtained to Lord John Russell's knowledge (himself a fellow-labourer in that work) of its merits. I have often advised him to compress his History, but he threatens rather to expand it. His edition of Stair is a deep and difficult legal work. His style is bad, and his method not good. All his merit may be traced to industry, acuteness, a severe regard for truth, and a safe, suspicious taste for original documents. Tytler is a very agreeable person, and devoted to Scotch history, on which he seems to me to have produced the only readable and complete work; but the profound hold him to be superficial, and the learned will not admit his accuracy. Thomas Thomson, certainly the best of all judges, turns up his nose at him, but then he is irreverent towards Hailes, Thomson's deity.

11th April 1836. I have just returned from a first visit to Liverpool, where I went partly to see English trials, of which I never saw one before. Lord Fullerton was with me. I sat in the civil court most part of eight days, on the bench, with Baron James

Parke, who is reckoned their best man for that work. I can scarcely form an idea of a better. Great knowledge of law, practical sense, a plain, resolute, short manner, a sort of easy patience, which consists of the feeling of impatience never having occurred to him, perfect good nature with counsel, juries, and even with the audience, clear, rapid notes, short speeches, and no doubts—these are the elements. What strikes a Scotchman most is their brevity, which is admirable. Its real cause is the quantity they have to get through, which makes longiloquence impossible. And they attain it by gentleness among the counsel, by their deference to the Court, their independence of the client and the attorney, and, above all, by their always coming at once to the real point. I heard no voice strained, and did not see a drop of sweat at the Bar in these eight days. Our high-pressure Dean screams and gesticulates and perspires more in any forenoon than the whole bar of England (I say nothing of Ireland) in a reign. The best thing I observed was their records, which under the new rules are short, distinct, and satisfactory. The worst was the miserable nature of many of their causes. Twenty pounds seemed to be above the average value. The whole success of the thing plainly depends far less on the system than on the way in which it is administered. A good practical Judge is everything; next to that a trained bar, controlling the client and agent, not an instrument in

their hands. We will be right in about fifty years, if by that time we get business enough. But I despair while the present generation, either on our bench or at our bar, endures. Yet we could give the English fully more wisdom than they have to give us, only not in *practical handiness in civil trials.* Their criminal trials, though conducted by Denman, have nothing to recommend them in preference to our own. At every stage—from the first suspicion down to the verdict, including particularly the extra-judicial investigation of the facts, the want of a public responsible accuser, the commitment by unchecked and ignorant magistrates, the sending a person before the grand jury one minute, and then, without notice or preparation, trying him the next, and the want of counsel for the prisoner—they are very far behind us; and in many things in civil business also.

23d April 1836. The speculative fever of 1825 is upon us again, but its only symptom now is a thirst for everything which tends to annihilate time and space, and to bring people, whether lovers or enemies, together; chiefly railways. It is a temporary mania. Many will be ruined; but ultimately the country will be pierced in every direction. The effect of this no one can at present fancy. Who can pretend to tell what state society would have been in now, if, two centuries ago, nature had suddenly become so changed as that

even for the transport of heavy articles, distance was thenceforth diminished to a tenth or a twentieth part. In twenty years London will probably be within fifteen hours by land of Edinburgh, and every other place will be shaking hands, without making a long arm, with its neighbour of only a county or two off. This will add to our wealth, and in many respects to our ease. But is not seclusion often a blessing? Difficulty of being reached has its advantages. Our separate provincial characters will be lost in the general mass where London will predominate; just as the picturesque peculiarities of the old personal characters of individuals are now all melted in the fusion of common society. We have many towns which have hitherto been induced by their very homeliness to cultivate themselves. They have their own tastes, their own amusements and habits, their own great men, their own glory. Would these little interesting provincial capitals have been disposed or able to excite or reward their native talent, or have maintained the raciness of their native manners, and all their ambitious local institutions, if beauty, and ability, and wealth, and aristocracy could in a few hours have found a field for display in London, while all their practical wants were as speedily supplied, and cheaper, than they used to be from that or other storehouses? Geneva could not have been Geneva near Paris, nor Edinburgh Edinburgh near London.

This passion for accessibility is only one of the thousand signs of the universal activity of the popular mind. It is not the result of a mere commercial demand. Human beings wish to be near each other from the mere excitement and necessity of communicating; and accordingly it is the conveyance of passengers—that is, of their minds, which, wherever there is speed and no certain danger, always increases to an extent which baffles calculation, that forms the only sure profit of every apparatus for producing contiguity. The intellectual fermentation is astonishing. On the single subject of popular instruction, any newspaper states facts and suggests reflections which imply the dawn of a new day. Schools, lectures, private colleges, normal institutions for the mere manufacture of teachers, pedagogue mills, associations open to all ranks, but chiefly for the middle and lower, inviting both sexes and all ages, embracing all subjects, physical and moral, practical and theoretical, all arts, ornamental and useful — everything, in short, except classical learning. There is some quackery and a great deal of superficial absurdity in all this, and in many of the countless books by which the popular craving is attempted to be satisfied. Phrenology, for example, and its kindred dogmas, are very prevalent; in so much that no fewer than about 14,000 copies of George Combe's book on what he calls "The Constitution of Man" have been sold within the last year; and James

Simpson, advocate, and the great apostle of infant and popular education, was listened to lately for several days by a Committee of the House of Commons, and is going about giving lectures to large audiences, at a penny each a night. Innumerable instances of a similar description—persons of perfect benevolence, great activity and ambition, and no want of confidence either in themselves or in their systems, have sprung and are springing up in every village; causes, as well as effects, of the general effervescence. Their great object, which they boast of indeed as not only new but as peculiar to them, is the diffusion of what they call practical knowledge; which means a knowledge of physics, chiefly mechanics. They say nothing about taste, literature, or history, and very little about political economy. Still, this excitement will do infinite good; for although there is much ignorance and conceit in it, there is, at least on everything physical or mechanical, a great proportion of sound valuable matter both in the lectures and in the books; and even their moral views and educational systems, however defective or even absurd in philosophy, tend powerfully to awaken the attention of the people, to direct their thoughts to intellectual subjects, and to convince them of the value and facility of self-improvement.

16th May 1836. There was an annular eclipse of the sun yesterday forenoon. The public attention had

been long called to it, and Dr. Chalmers had had the goodness to propose that as the phenomenon would happen on a Sunday between two and three in the afternoon, service should be put off to a later hour than usual. This advice was generally followed, and the eclipse owed no small part of its fame to the novelty of the kirks not meeting at the ordinary time. It was a beautiful spectacle. The day was warm and cloudless; the people all out, principally on the hills and fields, almost every one with a bit of darkened glass; and though there were many who could understand something about what was going on in the heavens, there were many more to whom the occasion was chiefly attractive from the gay scene of well-dressed crowds of young and old lounging, on a glorious Sunday, on the green earth. I was on the top of the tower at the Grange House with Sir Thomas Dick-Lauder and his family. There was something very impressive in the obscuration. The blaze of the brightest day became like the cold, thoughtful dawn of a summer morning a little before sunrise. The thermometer beside us fell 8 degrees; but I am not certain that it was managed and watched with absolute propriety. There were no stars visible (which it was said there would be) with the naked eye; nor were animals (as was also predicted) amazed; at least the cows, horses, and sheep on the Grange fields never abated a munch of their young juicy grass. A bantam

cock on the tower crowed frequently, which was held at the time to prove that he thought it the twilight of morning. But he crowed as vigorously when he walked into the dining-room some hours afterwards in the glare of the western sun. He was tame, and seemed to crow whenever he was entertained. The ring of light was *complete* for about four minutes, and appeared about two inches broad all round.

18th May 1836. I find that I'm wrong about the stars. *We* saw none; but other people did. Everybody seems to have been struck with the sudden temporary cold. The most impressive circumstance was not the degree but the colour of the diminished light. It was grey and solemn. Probably at the early dawn it would not have been noticed, or would not have had exactly the same hue, but cast upon the universal verdure, at the unusual hour, with all the circumstances of life in action, and in a sky so cloudless that the change could be ascribed to nothing but the changed sun, it was beautiful and awful. Many insist that animals, particularly birds, were affected; but I am pretty confident that this is fancy. Such a fancy, however, attests the greatness of the alteration in the appearance of nature that suggested it. Mr. Lyell of Kinnordy (the father of the geologist) assures me that a row of full-blown gentians, about 100 yards long and a foot broad, in his garden, closed their cups

almost entirely, and opened them again after the full force of the sun returned. He is a most accurate observer and narrator.

29th June 1836. Two excellent legislative efforts have lately been brought forward; the one for carrying the report of the College Commissioners into some effect, the other for doing the same with the report of the Burgh Commissioners.

The general object of the former is to create a body of permanent visitors to rescue the colleges from the patronage of professors, and, through those visitors, to have an easy and regular mode of conducting and improving the academic discipline and system. This is only proposed to be tried experimentally for a few years, in the course of which much experience would be gained, and many obstacles to the permanent working of the machinery be removed. The great and necessary objects are to extinguish professorial election, and to introduce some power, no matter what called—Visitors, University Court or anything, foreign to the college. Yet this bill, and chiefly because these are its ends, is vehemently opposed by each place for its own interest. The professors of Glasgow and the town-council of Edinburgh are each clear that the other cannot be trusted as electors, and each is indignant at its own power being in danger. The councillors of Edinburgh have even got up a public meeting

to petition in favour of their patronage (which they erroneously imagine is to be touched); and all over the country presbyteries and synods are in arms because these measures tend to weaken the hold of the Church over education, and they almost invariably insist upon it as a conclusive objection to the scheme of Visitors that it is not expressly declared that they must sign the Confession of Faith, without which they protest that no one ought to be allowed to have any connection with any Scotch college; that is, that these establishments are to be debarred for ever from all the talent of England, and all the learning of Oxford and Cambridge, unless where the candidate chooses to qualify himself by apostacy or by perjury.

The leading objects of the other measure are to allow towns to be composed, in law, of what is town in fact, instead of being encroached upon by rural parishes consisting of streets; to crack the vermin of petty magistracies; to enable police business to be performed by town-councils; to create powers of necessary petty taxation without always going to Parliament; and to do a few other things convenient in municipal management. Towns and their rustic vicinages are agitating against this measure. It equalises taxes, odious to those now free; quashes small jurisdictions, shearing the beams of those who now exercise them; and dissolves old local systems, pleasant from their very abuses. Glasgow gets pathetic at a public meeting,

and bemoans that no fewer than thirteen magistrates in Gorbals, Anderston and some other places, are in danger of being extinguished "at one fell swoop."

17th July 1836. Sir William Hamilton has been elected Professor of Logic in our University. The case has excited unusual interest, partly from the danger we ran, and partly because it was watched as a specimen of the reformed town-council's elective virtue. They have just saved themselves. There were twelve candidates, of whom two had the sense to withdraw, but ten stood to the last. Of these, seven were *quoad hoc* unworthy to be even placed. The three real competitors were George Combe, Isaac Taylor, and Sir William. Combe claimed the place honestly and solely on phrenological grounds. He said it was the only sound logic, and that he would teach nothing else as logic. In support of this he produced a most extraordinary volume. It contains a confession of phrenological faith by a great number of persons with respectable designations all over the world, all these sheaves standing round and making obeisance to Combe's sheaf. There is no such record of folly in any matter professing to be philosophical in modern times. Their confidence and conceit are rather amusing. To the honour of the electors Combe had only three votes. Mr. Taylor is an Englishman, and the author of some works by no means devoid of ability,

but more eloquent than sound, more declamatory than eloquent, and more incomprehensible than declamatory. Of these a *History of Enthusiasm* is the only one that was mentioned in this competition. I can scarcely conceive a book less likely to take the fancy of a town-councillor. But it did take the fancy of some of them, and so strongly that he was put in nomination before his very name was disclosed or perhaps known. He was set up as the author of that work, which was published anonymously. It was a book that was proposed to be made professor. He had no other reputation. He had not been seen at the time by any elector; it was not known whether he had ever tried to teach or lecture; he might have been dumb or blind. It is a severe fact for the council that fourteen of its members voted for him. Four more, being eighteen in all, voted for Sir William, unquestionably the best candidate. Able, learned both in ancient and modern languages, laborious, and devoted to intellectual pursuits, he is the only man now in Scotland, and one of the very few in England, who are reverenced by the profound on the Continent. What he has hitherto published happens to be on the deepest matters of the darkest subjects in logic and metaphysics, and consequently is not clear to superficial readers; and therefore his obscurity was made one of the great objections to him. Another was, that as professor of history, which he has been for some years, he had failed

to collect a tolerable class, and therefore he must be a bad lecturer. The fact of the failure is certain. But who collects a voluntary class, especially on a purely intellectual subject? Still, my only fear is as to his powers of teaching. There are fewer good lecturers than great orators. But even in this he held out far better hopes than his rival; and whatever the result may be, his rejection would have been disgraceful, and it is not comfortable that the public should have been exposed to such danger of losing such a man.

12th August 1836. When the Lord Advocate left Scotland last February, he took the drafts or schemes of a shoal of bills touching Scotland with him. The Session of Parliament will be over in about a week, and not one of the more difficult or important of these bills has been passed. Two or three, which had passed the Commons, were rejected by the Lords; several stuck in the Commons; and the majority never moved at all after being introduced.

The Lord Advocate is much blamed for this abortive or bungled legislation; justly, to a certain extent, but not altogether. It is always a radical blunder to undertake too many objects at once. But an angel could not have got these bills carried, even assuming them all to be right, if he had been Lord Advocate of Scotland. This officer did very well formerly, when there was little Scotch business, no self-willed Scotch

members, no independent Scotch public, and always some powerful member of Government who, as such, gave the Lord Advocate the strength of Government whenever it was required. All this is now changed. Government is nearly as ignorant and as regardless of Scotch affairs as ever, because it not unnaturally trusts to those who now do represent the country, and having the Lord Advocate always at hand, leaves him and them to manage as they can. The consequence is, that he is exposed in all his measures to be obstructed and thwarted by the folly or the sense of all the Scotch members; and whenever the decisive aid of Government is wanted, he finds that the minister who is not previously committed does not consider the expediency of the measure so much as the inexpediency of displeasing his supporters. The Lord Advocate is thus left alone; and is obliged to introduce, and expected to carry, great measures without ministerial aid; and is even placed in the degrading predicament of finding himself first blamed by unreasonable associates, and then, as if for the purpose of rewarding them and attesting their being right, publicly disavowed by those who ought authoritatively to support every servant they mean to retain.

I am now clear that the only remedy for this is to institute a Scotch secretaryship, and to leave the Lord Advocate to his proper duties. A practising barrister is rarely trained for a statesman; and even though such

a barrister be occasionally to be got, he can never be expected or required to sacrifice his profession for a precarious office. The public accuser ought to be in Parliament, but he should neither be obliged to attend there constantly nor to take charge of all public measures which happen to involve law, which almost all measures do, especially in Scotland. A secretary would consult his masters before he began, and would always speak with their voice, and act with their authority. For this reason the institution of the office would be unpopular with the Scotch members. It would diminish their importance.

The rejected or stopped bills related to matters of great importance, such as those for reforming our universities, for giving popular magistracies to small towns, for enabling sheriffs to hold small-debt circuits, for carrying into effect the report of the Law Commission about the Court of Session, for amending the bankrupt law, etc.

16th November 1836. The Glasgow students have elected Sir Robert Peel their rector, by a majority of about 100, against Sir John Campbell the Attorney-General. He is the first Tory who has been chosen for many years. It will be given by his party as a clear proof of reaction, the more important that it is among the young. Perhaps it is so, but it has been owing far more to there being no right man set up against

him. The Attorney was absurd; whereas Peel, independently of politics, is a most fitting man for this literary honour. His instalment will be made the occasion of a grand party festival. Meantime, it has made the Conservatives happier than I have seen them for a long time.

27th December 1836. Scotland has been teeming, in every village almost, with meetings which could only have arisen in a boiling population. They are called "soirées" (pronounced "sorries" in Edinburgh, and "swurries" in Glasgow), being cheap evening public meetings, attended by crowds, male and female, who get tea and speeches for a shilling or sixpence or even for twopence. I do not think that the Tories or the pure Whigs have as yet adopted them; but they are the familiar conventicles of the Radicals, of the Dissenters, of several classes of the benevolent and the religious, of the patrons of unendowed institutions of science, of temperance societies, and in general of all those who want to hear or to make speeches, to excite or to be excited at a cheap rate, and without the labour and risk of open public meetings. There is not a newspaper which does not contain advertisements of these new inventions, which almost always announce the chairman and particular speakers. The propriety of putting down the Church or of extending it; hearing a returned missionary's account of his adventures in Africa;

founding a school; receiving Fergus O'Connor, the Radical member for Cork; the refutation by Combe of the errors of a renegade phrenologist; testifying the gratitude of the ward to Mr. A. B., the late Commissioner of Police; presenting a pair of new bands to the Rev. Mr. C. D., the minister of the chapel of Portsburgh, by the ladies of his congregation; are all done in *soirees*. And though laughed at by those who do not go they are very powerful engines. They are the easiest modes of getting people assembled and excited safely. If they had been invented in 1820, Castlereagh's six acts would have been useless. He thought that if he could put down public meetings in the open air, he would put down popular verbal discussion, but he did not anticipate a state of society which should maintain and require numerous and decorous assemblies of men and women, separately or together, in every town, every night, where, without much preparation and at almost no expense, addresses sufficient to captivate the audiences were sure to be delivered with all the effect, but with little of the danger, of ordinary popular oratory.

9th January 1837. A scheme is now afloat which, if carried into effect, will very greatly injure the west half of the North Loch, and worse than ruin the east half. It is proposed to bring the Glasgow railway along the whole valley, tunnelling under the Mound,

and joining other railways near the North Bridge. The result will in time practically be, that the whole of that beautiful ground will be given up to railways, with their yards, depôts, counting-houses and other abominations, at least on the east side, which will ruin the peculiarity of the valley between the old and new towns, and by rendering the preservation of the open space less important will possibly lead to building on the south side of Princes Street. Could a Judge agitate, I should raise the very stones against this project. The apathy of the (unexcited) public is astonishing. The majority, indeed, would sacrifice the beauty of Edinburgh to its trade. My prediction is that the nuisance will be introduced, though some parties say they are resolved to oppose it. But what chance has taste against a railway before a committee of the House of Commons?

26th January 1837. "Scotland" (as Sir John Sinclair said when his sinecure office was abolished) "is no longer a kingdom." The death of the Duke of Montrose, who was Justice-General with a large salary, has sunk the office in the office of Lord President without a salary; and last Monday the Lord President took his seat as head of the Justiciary, and the long uneclipsed glory of the Justice-Clerk was dimmed. The existing arrangement, under a Statute made by Sir William Rae when Lord Advocate in 1830, is absurd,

and will probably be amended by abolishing the Justice-General, or merging the office in the office of Justice-Clerk, or *vice versâ*. Meanwhile it is curious to see the gradual fading away of these old remnants of our separate monarchical and feudal state. I wish their preservation could have been made useful.

And the death of Lord Rosslyn has extinguished the lucrative sinecure of Director of Chancery. Poor Rosslyn! What a sad change the follies of the last six years made on his character and station. He joined Wellington's first ministry along with some other Whigs, and with the entire approbation of that party; but this was never supposed to bind those associates to renounce their old principles, and to become the slaves even of Wellington in the course of that hostility to Reform which he astounded his past friends by proclaiming, nor has any one of them ever been breathed against for leaving and opposing him. Rosslyn, however, having enlisted, thought obedience his only virtue, and with inconceivable weakness he changed his opinions, or at least acted inconsistently with the conduct of a long life, and gave up his sense, his usefulness, his character, and his happiness to his captain. Had anybody told him when he was presiding at Fox dinners, and toasting the thorough reform of the Scotch representation, that in a few years he would be opposing it, he would have rejected

the prediction with horror. Yet I never could cease loving and admiring him. His talent, spirit, and long consistency; his gallant, gentleman-like, old soldier-like air; his light erect-looking figure; his grizzly hair; and the very wrinkles around the outer wicks of his eyes, were all admirable. It was lamentable to see how plainly his self-dissatisfaction made him more bitter against the improvements he was ashamed to see his old friends promoting, and he not among them.

3d February 1837. Meetings have begun to be held for the first time in Scotland against what, from the English term, are called church-rates. There was one here lately, and another in Perth. It is difficult to see what church-rates are in Scotland, but the principle of the opposition to them is, that nobody shall be obliged to contribute anything, even through the general public funds, for the maintenance of an Establishment or of its ministers or buildings which they do not use; and this will ultimately prevail.

Last Tuesday the town-council of Edinburgh, by a majority of fifteen to nine, resolved to give a site on the Calton Hill for a monument which the Radicals, headed by Joseph Hume, wish to erect to the memory of what are called "the Political Martyrs of 1794," being Muir, Gerald, and others. There is little chance of their getting money to build anything worthy of

that position, and no chance whatever that those who can check the council will let them take the ground; and I should be sorry to see such a place polluted by anything so discordant with the purity and harmony which ought to reign there. But the town-council of Edinburgh being willing to give a site is a striking fact. Were a building erected to commemorate the atrocity of the trials it would be deserved; but these martyrs, however excellent men, were in fact great enemies to liberty, which in all ages has been obstructed by injudicious friends.

17th February 1837. Lord Balgray having died a few days ago, John Cuninghame the Solicitor-General is put on the bench, and this has made Rutherfurd Solicitor-General. I am delighted with my friend Cuninghame's promotion. Rutherfurd is decidedly at the head of the bar in professional merit and practice. In character, talent, and general knowledge he is high and strong. This is his first official step. Everything that brings him nearer the office of Lord Advocate, or nearer any office which puts the affairs of Scotland connected however remotely with the law under his charge, is important. He may fail, for the Lord Advocateship is made a very peculiar and difficult post; but if he does, no one can succeed. Scotland can produce no such man for that position.

2d May 1837. I have finished the second volume of Lockhart's *Life of Scott*. To those who know the individuals and the localities it is an amusing Edinburgh book. Scott's own account of his early years is admirable. No man ever traced the sources of his own mental peculiarities more satisfactorily. So far as the life has reached, it is a very fair account of the man. Of course there are a thousand incidents not told, and a thousand traits not delineated, or capable of being so; but nothing is kept back or misrepresented, so as to exhibit Scott in a false light. Importance is given, from their having been intimate with Scott, to a number of persons in themselves so insignificant that to us who know them it is ludicrous. The two most extraordinary revelations to the people of Edinburgh are, that John Irving had once a particle of literary taste, and that there was a time when Lady Scott was pretty and agreeable. Considering the ordinary feelings of the reviewed towards the reviewer, I did not expect Jeffrey to come so well out of their hands. His criticisms seem to have given deep offence at the time, which his politics did not tend to alleviate, but they have not a whisper to breathe against him personally; and on looking back at his reviews now, they seem to me to be singularly just, and by far the most honourable testimonies that have ever been given to the genius of Scott.

17th May 1837. The railway project, formerly mentioned as to the North Loch, has failed for the present. The clause empowering them to destroy Princes Street has been withdrawn, so that, though the bill for the rest of the railway should pass the Lords, the work must stop west of Edinburgh. The deadness of the people of this place as to the beauty of the city, this being their glory, is amazing. The proprietors in Princes Street petitioned against the scheme on the ground of its hurting their *property*, but not a whisper of opposition was heard from the town generally on the immovable ground of its destructive consequences in reference to taste.

There has passed a bill of my own. By the Act 6 Geo. IV. chap. 47 the power assumed by the Court of Justiciary of transporting for sedition was taken away, and the utmost possible penalty, even on a second conviction, was made banishment. The principle for this was declared to be that this was the law of England, and that the law of sedition should be the same in both countries. But in 1830 the Act 11 Geo. IV., and 1 William IV. chap. 73 mitigated the English punishment still further, by taking away the power of even banishing, and making no case be more severely punished than by fine and imprisonment. If the Lord Advocate (Sir William Rae) and the other Scotch members had done their duty, a similar mitiga-

tion should have been introduced into the law of Scotland; but it was not so, and the old odious distinction by which Scotch sedition was more severely punished than English was kept up. I explained this to the present Lord Advocate (John Archibald Murray), and gave the heads of a very short bill to correct it, and the Statute now passed is the result.

30th May 1837. Everything in the empire is tinged for the present with Church; hence the importance of the proceedings of the General Assembly. The one which has just risen dispensed its private justice very well. It gave the Veto fair-play. The great danger of it has hitherto been in the tendency of the Wild party to extend it, and to apply it injudiciously against presentees whom they think not sufficiently popular. This year good sense prevailed, and the new privilege was safe from odium. This privilege has wrought remarkably well; by which I mean that effect has been given peacefully to the popular call. Of the 90 or 100 ministers who have probably been appointed within the three years of its operation, not above 12 or 15 have been obliged to seek the protection of the Assembly. Whether the half popular election of ministers be expedient is a different matter; but the thing is plainly not impracticable, as it was predicted that it would be.

In other respects the General Assembly, like the

Church in general, was alarmingly wild. All the modern changes—the recognition of the chapel ministers as members of ecclesiastical Courts, the increased strictness about elders, the decline of the moderate party, and the introduction of the veto—have all for the time given force to the evangelical spirit, and have made moderation and liberality contemptible, if not criminal; and consequently have tended to exclude moderate and liberal men. The great objects of abhorrence with the zealots of the Establishment are Popery and Voluntaryism; and even the veto, which gives effect to the popular feelings on this subject, has in its first results been unfavourable to the popular cause. If these things do not account for the very curious fact I do not know what can, but it certainly is a fact that in our republican Church nothing is so rare at present as to find a clergyman not in hostility to the most liberal Government we have ever had, and the one which has done most to promote the popular side of this very Church. These Evangelicals are sure to be joined, whenever Government is concerned, by the irreligious Conservatives; and the result is, that with Toryism, the Voluntaries, and the Pope reason has no sort of chance at all.

Hence, on the 23d of May 131 members voted in favour of a motion to introduce popular election of elders. They were defeated by only 154. On the 25th a motion for the abolition of patronage was

supported by 97, a still increasing number. The new "Statistical Account of Scotland" is conducted under the sanction of the Assembly. Dr. Cleland (layman), a celebrated statist, furnished the account of Glasgow. He is a staunch churchman, but not intolerant. He has a note in which, speaking of the consecration of the nuns and nunnery of St. Margaret's near Edinburgh in 1835, he calls the ceremony interesting and affecting, "and describes the sermon, in which Catholicism of course was praised, as powerful"—an injudicious note perhaps, but not calculated to rouse much horror in any reasonable bosom. But this mighty affair was brought before the House, when one member declared the note to be so "disgraceful" that "he could not restrain his indignation." The learned Dr. Lee apologised for the publisher, by ascribing it to mistake, and saying that "he believed Mr. Blackwood would sooner have put his hand in the fire than sanction anything of the kind." Another reverend gentleman was "glad of the abhorrence and disgust expressed in this house about this abominable note;" and so it was ordered to be expunged. These things show the tendency of the current.*

25th June 1837. One of the last acts of William

* Cleland has since published a defence, the substance of which is that his whole article, including this note, was revised by Dr. Chalmers.

IV.'s life was to make me a criminal judge, in place of Gillies, who has resigned for the Exchequer. Jeffrey had a prior offer and a prior claim, but he declined.

My circuits in the future will be of a different sort from the past. Of all my old circuit companions there is none it is so delightful to recollect as Jeffrey. I have been with him often at every circuit town, except Inverary; and we generally travelled together. Every court-house and every inn is associated with him. Striking as his professional displays used to be, they were always effaced by his personal worth, and his rich and playful conversation. Whether walking through beautiful scenery, or shivering in a state of nausea in a crazy Kinghorn passage-boat, or toasting himself over the kitchen fire of a bad inn in the gray of a spring morning till the ostler could be roused, he never failed to enliven the scene by his speculations and his discussions with anybody, however humble, who came in his way. Would that he were on the Justiciary Bench now.

I could fill many pages with anecdotes connected with famous trials in which I have been professionally engaged; but not without far more detail than any one would care to follow. I shall just relate three stories, which are simple and curious.

A person named Elliot was convicted of a capital offence, and was sentenced to die. Owing to a legal doubt he was pardoned; but only a day or two before he was to have suffered. Another man, who had been condemned to be executed on the same day, was not so fortunate. Mr. Forbes (now Lord Medwyn) was caught by accident on the Lawnmarket of Edinburgh, and could not escape from the crowd which was assembling to witness the execution of the law's remaining victim; but he made his way into a remote spot towards the upper end of the street. A man came there hurriedly and in immense agitation, and stood out most of the scene. His eyes were strained towards the scaffold as if they would burst, his chest heaving—the very picture of horror. It was Elliot. Medwyn had seen him in Court, and knew him. He had felt it irresistible to witness the proceeding in which he himself had so nearly been an actor, and probably endured more in seeing the position of the sufferer, and in sympathising with *himself*, than he would have done if he had been the spectacle, and not a spectator. It was a strange feeling that forced him there, and not an incomprehensible one.

I had a client, David Haggart, who was hanged at Edinburgh for murdering his jailer in Dumfries. He was young, good-looking, gay, and amiable to the eye; but there never was a riper scoundrel—a most perfect

miscreant in all the darker walks of crime. Nevertheless his youth (about twenty-five) and apparent gentleness, joined to an open confession of sins, procured him considerable commiseration, particularly among the pious and the female. He employed the last days of his existence in dictating memoirs of his life, with a view to publication. The book was published; and my copy contains a drawing of himself in the condemned cell, by his own hand, with a set of verses, his own composition, which he desired to be given to me in token of his gratitude for my exertions at his trial. Well, the confessions and the whole book were a tissue of absolute lies—not of mistakes, or exaggerations, or fancies, but of sheer and intended lies. And they all had one object—to make him appear a greater villain than he really was. Having taken to the profession of crime he wished to be at the head of it. He wanted to die a great man. He therefore made himself commit crimes of all sorts, which, as was ascertained by inquiry, were never committed at all. A strange pride; yet not without precedent, and in nobler walks of criminal ambition.

Mrs. Mackinnon was convicted of murder in March 1823. Jeffrey and I were her counsel. Her family had been respectable. It was stated by a person who had served with him that her deceased father was a captain in the army. But, by misfortune after

misfortune, and probably by successive acts of misconduct, she was at last, when not much if at all above thirty, reduced to the condition of being the mistress of a disorderly house in Edinburgh. Still she was not all bad; for a strong and lofty generosity, by which she had been distinguished before she fell, neither the corruptions nor the habits of her subsequent life could extinguish. She had stabbed a man with a knife in a brawl in her house, and it was for taking his life that her own was forfeited. If some circumstances, established in a precognition taken by order of the Home Secretary after her conviction, had transpired on the trial, it is more than probable that Jeffrey, whose beautiful speech on the bad elements then in his hands is remembered to this hour, would have prevailed on the jury to restrict their conviction to culpable homicide. But in law it was a murder; and she was executed. So she died gracefully and bravely; and her last moment was marked by a proceeding so singular, that it is on its account I mention the case. She had had an early attachment to an English Jew, who looked like a gentleman externally; and this passion had never been extinguished. She asked him to visit her before her fatal day. He did so; and on parting finally, on her last evening, she cut an orange into two, and, giving him one half and keeping the other herself, directed him to go to a window opposite the scaffold at which she could see him, and to apply

his half to his lips when she applied her half to hers. All this was done. She saw her only earthly friend, and, making the sign, died, cheered by this affection.

Here the anecdote should have ended; and, if it had been an invention, it would have ended here. But how Nature's wonders exceed those of art! She had left everything she had, amounting to four or five thousand pounds, to this friend. He took the legacy, but refused to pay the costs of her defence, which her agent only screwed out of him by an action.

25th July 1837. I have been reading Sir John Sinclair's Life, by his son. Nothing was necessary to raise him in the estimation of any one who knew him, especially in domestic life, for worth and industry; but his biographer amiably, though unfortunately, tries to make him out to have been a great man, guiding the age, and acknowledged as their leader by most persons of contemporary eminence. This is not a mere filial error, it is one under which Sir John himself lived. Thousands of strangers were misled who merely saw the variety of measures with which he connected his name, and the distinguished correspondents he could boast of. No one's real position ever can be inferred from such circumstances. A meddling active man, especially of respectable character and station, may easily thrust himself into everything. Politeness, particularly if in high place, though

obtruded upon by disliked letters, generally returns a gracious answer;* and publications on passing schemes are sure to be always rewarded by the complimentary gratitude of the authors of the defended measures. The opinion of associates, *as expressed to each other*, is a safer criterion.

Measured by this standard, it is to be regretted that Sir John's reputation never stood so high as it probably would have done had his virtues been left to themselves, unobstructed by an ostentatiousness of patriotism and a profession of universal influence and usefulness, which made the world as unanimous in laughing at his weaknesses as in esteeming his amiableness. The mere multiplicity of his projects would have made a much stronger man ridiculous. Between the years 1782 and 1835, a period of only 53 years, he wrote and published, according to his son, 18 volumes, many of them quartos and folios, of his own matter, and suggested and superintended the publication of above 100 volumes more, besides delivering himself of 367 pamphlets.† Yet, not content with

* The late Earl of Buchan made both Washington and the Emperor Paul write to him simply by writing to them.

† The son's list is not complete. Besides several others, I do not see the pamphlet in which he seriously proposed, during the long sittings of the Commons under the Reform Bill, to diminish the labour and increase the weight of that branch of the legislature by dividing it into two parts, one consisting of all the members above 50 years of age, and the other of those

his own fecundity, there was something ludicrous in the innocent vanity with which, if he did not claim the merit, he at least set himself up as the patron of every other man's proposal. It seems now that even Shrapnel shot was his; and people's disposition to laugh was not repressed by the ponderous formality and the solemn lecturing manner with which his discoveries were propounded. With a whole life devoted to what appeared to him to be public and especially Scotch improvement, he accomplished very little, led no party, had no weight. The idea and superintendence of the "Statistical Account of Scotland," a poor work, but valuable as the first of its class, was his greatest achievement. The Board of Agriculture, of which he was proudest, is the smallest. His capacity as a practical philosopher is fairly appreciated by Jeffrey in his reviews of the "Essays on Miscellaneous Subjects" and "Code of Health and Longevity." ("Edinburgh Review," vol. ii. p. 20, and No. 21, vol. xi. p. 195.)

27th August 1837. Another general election, under the Reform Bill, and the first under Victoria, has just closed. There is a great majority in favour of the Whig Government from the English towns, but

under it, and confining the latter to the business of preparing measures in committees, while the duty of deliberation and of final legislation should be reserved to the former alone. Quite serious in this, he could not be made to see an objection to it.

such a majority against it from the English counties that the result on the whole in that part of the kingdom is Conservative. This is counteracted by the Irish and Scotch elections, which are strongly ministerial, so that over the Empire there is a majority, but a small one, in support of Government.

This election has produced and justified a loud outcry against the manufacture of fictitious votes, and the intimidation of tenants by landlords. Some shires are getting covered with votes, which may be in legal form, but which are held by persons who have no connection with the place, and seldom any true property, and who are brought in merely to swamp the real local constituency. Intimidation is practised by both parties, but especially by the Tories, who, having the greatest quantity of land, have the best means of doing it, and to an extent which makes their dependents slaves. Both of these mischiefs, but particularly the last, are to a certain extent inseparable from property, but, if unchecked, must either corrupt and degrade the people, or may lead to some outbreak. It is heartrending to witness the wretchedness of voters wishing to be honest, but compelled to promote the cause which inwardly they detest. The people must either have their passion for independence extinguished by habitual corruption, or else their hatred of the oppression practised upon them, joined to their contempt for the motive, will drive them to emanci-

pate themselves by some irresistible effort. The contrast between the towns and counties seems to me alarming. The real opinions of the majorities in both are not very different. But the towns are comparatively free, while the shires are controlled. I believe that in Scotland there have as yet been very few Conservatives returned with the honest consent of a majority of the real voters. The belief that the ballot would cure this is multiplying the friends of that cause every hour. The clergy have again acted foolishly. They have not only voted in great numbers, but have canvassed, and have polluted themselves by the intrigues of elections, and almost invariably on the unpopular side. Dr. M'Leod, indeed, the Moderator of last year, has publicly boasted that the Church does not contain above six clerical Whigs. This being their line, the Dissenting clergy, who agreeably to their general principles act with equal zeal on the opposite side, carry off the whole popularity. The Church of Scotland is ceasing to be the people's church. The consequences of this are sufficiently plain. For example, I am told, and I believe, that only one of the Established county clergymen voted for the popular side in Roxburghshire,* not one in Mid-Lothian, and that in Ross-shire a motion has been made and seconded in the Presbytery, and its consideration adjourned, that every minister who had voted or who should

* Understood to be Rev. Dr. Aitken of Minto.—Ed.

vote for the Ministerial side should be dealt with as one who had violated his ordination vows, having thereby voted for Catholicism.

8th October 1837. James Keay of Snaigo, advocate, died a few weeks ago; a most excellent person in private life, and one with whom I and many of my friends have been affectionately united for nearly forty years. In his profession he had one power to an extent I have never known equalled—that of perspicuity. It was a very curious faculty. Take a piece of reasoning so abstruse, or a statement so intricate, that no one could make anything but mist out of it, and put it in Keay's hands for half-an-hour, and it was all transparent. He let the nonsense alone, and put the sense in a clear natural light, and explained everything so plainly and judiciously, with such perfect candour and such composed, concise fluency, that people always wondered where the difficulty had been. A most dangerous pleader. Few judges were safe when so pleasantly assailed. They could not help being convinced, when conviction came recommended by so much plausibility, and willingly avoided the torture of further doubt. With some men this would not have done. Had it been tinged with cunning, it would have been suspected and resisted. Keay's character gave his art force. He was candour itself. His honour and sense could not have stooped to take

advantage of his skill by anything unworthy of themselves; a pure and judicious person, with no taste for public affairs.

24th October 1837. I dined at Craigcrook on the 21st, and at the New Club yesterday for the first time since he was couched for cataract, with one of the finest specimens of an old gentleman, Lord Lynedoch. He is better even than the Chief Commissioner, in so far as he is a year or two older. At the age of about eighty-eight his mind and body are both perfectly entire. He is still a great horseman, drives to London night and day in an open carriage, eats and drinks like an ordinary person, hears as well as others, sees well enough, after being operated upon, for all practical purposes, reading included, has the gallantry and politeness of an old soldier, enjoys and enlivens every company, especially where there are ladies, by a plain, manly, sensible, well-bred manner, and a conversation rich in his strong judgment, and with a memory full of the most interesting scenes and people of the last seventy years. Large in bone and feature, his head is finer than Jupiter's. It is like a gray, solid, war-worn castle. He did not enter the army, I believe, till he was past forty, and then, beginning as a sort of sagacious, brave, voluntary adviser at the siege of Toulon, early in the Revolution, and proceeding in the same capacity, but recognised by the British Govern-

ment at Napoleon's siege of Mantua, he was afterwards in Egypt, and then had a command under his friend Moore, at whose dying request his full rank was conceded; after which he shone in every transaction in the Peninsula, and his assault on Antwerp (gallantly conducted, but unsuccessful) was, if I recollect right, the last military event in the war which ended in 1814. Nor has it only been in the affairs of war that his manly chivalrous spirit has made him be admired and loved. He has always taken a decided part in politics, on the popular side, and is one of the old Whigs who find nothing good prevailing now but what he fought for and anticipated long ago. He is one of the men who make old age lovely.

1st November 1837. Adieu to this autumn! The discomfort of the wretched winter of 1836 lasted till May 1837, to which our snow was prolonged. I was building a tower at Bonaly then, and the masons were stopped in November 1836 for six almost entire months. But after this, as if to contrast her varieties, nature relented, and what a season we have had since last May! The obstinacy of the winter threw the spring into summer, and saved all vegetation from check, and produced that glorious mixture of vernal bloom with summer gorgeousness which is the pride of our perfect years. The hawthorn and laburnum

continued in flower till about the 8th of July, on which day I last saw them, and down to the 26th of October we were blessed by a succession of bright and warm days, which, if it were our lot yearly, would make me think that there was some sense in Charles the First's compliment to the climate of Britain. For the gardener, the forester, the farmer, the florist, the tourist, the artist, and him who likes to sit on the hill-side and look round him, we have had six scarcely improveable months. I have renewed my acquaintance with some places which were beginning to get dim on my memory, particularly about Stirling. I passed some days at Leny and its matchless vicinity, including Loch Katrine and Loch Ard; and saw the prospects from the top of Dumyat and along the southern base of the Ochils, with their peaceful Swiss-like villages. These are some of the many many scenes which make it no presumption in Scotchmen to boast of their country even in competition with Switzerland. I can't recollect being more moved than on seeing the people of Menstrie, sitting upon a bright, calm, September Sunday, towards sunset, on a velvet knoll to the east of their sweet village, at divine service. Sir Thomas Lauder and I waited at a little distance and heard four verses of a psalm sung. The mingling of the voices, at such an hour, in such a scene, combined with the recollections of the hill-folk, was solemn and delightful.

8th December 1837. There were two public meetings held here on the 6th in favour of ballot,—one by the Whigs, with the Provost in the chair, being the first they have ever held in Edinburgh for this object; the other by the Radicals, who combined it with universal suffrage. Meetings of the same kind are in progress in all our towns.

This is the result of the oppression practised on dependent voters at last election. Whether the ballot would do good or harm, or neither, I cannot say. I don't like it; and it is impossible not to see that it may turn out an effective and new engine by which power may be practised on dependents, unchecked by the dread on the minds of these dependents of detection or unpopularity if they should prove false to their principles. Nor can I discover any obstacle to the oppressor still oppressing, by not letting his slave vote or register. The direct connection, on the other side, between ballot and universal suffrage I can't discover.

It is a difficult and dangerous subject. *But we shall have it.* The people have got the idea that it will protect them; converts to this view are making in the middle ranks every day; *all* parties, but the Conservatives eminently, for they have most power, will go on concussing votes; and these causes will produce ballot at no great distance. It is curious how causes, when they have any root, grow. In

1830, when Parliamentary Reform was fairly budded, there were but a very few, and these only visionaries, who dreamed of ballot, and the rest of the world heard them with a stare and a laugh. It then became a favourite with the low and the desperate; but still, in 1833, it was merely the symptom of disreputable radicalism, and, like the word Radical a year before, the imputation of it was an offence. It then gained adherents among a higher class, and was openly defended in Parliament. Still, even in 1835, cautious men were half afraid to let it transpire that they did not dislike it, and no member of Government could permit any opportunity of disavowing it to pass. A few more elections broke down all this delicacy; till at last, high, prudent, and intelligent persons in all positions defend it. Nearly the whole of the lower people, and about one-half of all the upper, are resolved to have it. "See what follies your reform fever breeds," says the Conservative. "See the force of truth," says the Radical. "See the guilt," says the Whig, "of either Whigs or Tories provoking the Radicals by oppression into new claims. "See," observes the philosopher, "the vanity of relying on customs, merely because they are old, when they are inconsistent with apparent justice; and the electric force and rapidity of new opinions among a free people when they are plausible and appear to afford a relief from tyranny; and don't think to maintain any

abuse connected with practical happiness merely by its antiquity." The natives of our remotest villages are demonstrating the necessity of ballot. They will do the same with the Peerage and the Church whenever fire is set to the train, if these become intolerable and can do no more than exclaim—We are very old!

CHAPTER V.

1838.

15TH JANUARY 1838. There has been nothing talked of here for a fortnight except the trial of the cotton-spinners. The workmen of this trade have for above twenty years had an association which has been the real mover of all the combinations and strikes of workmen in the manufacturing districts of Scotland, and has been interwoven with all the manufacturing turbulence of England. It contained about 1000 names, but these influenced all the other spinners, and when they were pleased with their wages nothing was done beyond keeping the machinery of the association ready to act; but when their demands were not complied with, their staff of president, secretary, treasurer, and committees ordered a general strike. Those who obeyed and required aid were paid out of a fund which had been accumulated during the years of prosperity. Those who disobeyed were proclaimed "*nobs*," and were insulted, obstructed, and punished. They were watched and marked by spies employed by the guard committee, and attempted to be seduced by arguments

and bribes; and this failing, they were threatened, assaulted, scalded with vitriol and shot, and their masters' works attempted to be burned. All this was done *systematically* by the directions of the secret committee, and was persevered in for years. It began about 1820 and 1822, and continued till about 1826, during which period several "nobs" were murdered and many mutilated by confederates. One of these cases, that of Kean in April 1825, where a client of mine shot a spinner, caused an extension of Ellenborough's Act to Scotland. After this they had only a few detached outbreaks till April 1837, when another general strike was ordered and the secret committee was revived. The old atrocities were renewed and, among others, on the 22d of July a poor man called Smith was murdered by being shot on the public street. This led to the detection and apprehension of the whole leaders, assembled in their ordinary den, the Black Boy tavern; and this was followed by the trial of five of them, who were accused of Smith's murder, of sending threatening letters, of fire-raising, and of assault, and especially of conspiracy to compel the keeping up of wages by these things, murder included. The case created intense interest, and all good men looked at it as tending to check a system absolutely incompatible with the existence of society. The Radicals denounced the prosecution as a mere attempt by a base Whig Government, moved by rich and vindictive master manu-

facturers, to oppress free and virtuous workmen. There were public meetings in all our manufacturing towns in favour of these indicted conspirators and murderers, from which petitions were sent to Parliament commiserating them, and abusing the law of Scotland and its administrators. One of these was actually signed by about 20,000 people. These applications found their supporters in the House of Commons. The populace was addressed both here and in Glasgow by four persons, who for some time have been practising for hire the profession of itinerant corrupters of the manufacturing population. A person, calling himself the Rev. Joseph Stephen, openly preached to the people of Glasgow the propriety of burning the mills of the "cotton tyrants," and in the evening of a day in November, when the first diet of the trial took place, a person named Beaumont and Feargus O'Connor harangued a meeting in the Waterloo Hotel here on the proceedings, when one of their finest flights consisted in contrasting the "five villains in scarlet" (the Judges) with the "five respectable gentlemen in black" (the prisoners). I don't understand why these direct interferences with a pending trial were allowed, or have not been punished.

The trial began on the 3d of January 1838, and ended on the night of Thursday the 11th, within about two hours of the last moment to which, if there had not been an arrangement, the Act of 1701 would have allowed the proceedings to extend. I was on

the Bench the first five days. After this I was obliged to go to Glasgow for the winter circuit. The trial was long, because the field of evidence was extensive, and because this necessarily led to long speeches. Some people in England are pleased to wonder how we could not convict them, if they were guilty, sooner, forgetting how often they with all their expertness have taken as long or longer; as, for example, when they about 1820 took ten or twelve days (I think) to convict Hunt of a riot committed before thousands in open day. The Justice-Clerk (Boyle) had a doubt about the murder, which of course produced an acquittal on that charge. I had none. The rest of the case was fully made out, and there ought to have been a general conviction on it all. But it was a bad jury. Its brains had been knocked out by the prisoner's twenty-five peremptory challenges, and one of the jury kept a public-house where one of the trades or political unions used to meet. The Lord Advocate (Murray) was well opposed by Patrick Robertson and Duncan M'Neill, and the Justice-Clerk took fourteen hours to sum up. A jury may fairly think that the guilt can't be clear which it takes the Judge fourteen hours to unfold. As it was, they found the prisoners guilty of only four of the minor acts, and even these only by a majority of one; and one of their convictions was found by the Court to be inconsistent with a part of their verdict on which they had acquitted. The result

of all this was, that the "villains in scarlet" could only send the "gentlemen in black" to Botany Bay for seven years—a sentence which the Court could not have gone beyond, but which was utterly below the justice of the proved case.

However, great good is done by the exposition of the facts. It discloses a curious and shocking picture of a part of society. When these men struck, the average wages of ordinary cotton-spinners was from 20s. to 25s. weekly, after paying their piecers and all other expenses. The higher classes of them were earning from 30s. to 40s. a week. Yet they have long been the poorest wretches in Glasgow. The Sheriff (Alison) tells me that they are the chief defenders in the Small Debt Court, and that they can never pay, and that on attempting to poind their houses are always found cold and unfurnished. There are many other facts which show how consistent high wages may be, in disorderly minds, with the worst habits. These fools had contributed, and have in a few years spent, nearly £12,000 in furthering their unattainable end. Nearly £1000 has gone to the "Liberator"—a blackguard newspaper published by their champion Dr. Taylor, and above £4000 in what they call emigration, which means bribing important *nobs* abroad, and helping their own accused to abscond. If they mistake the lenity of the sentence, it may make bad worse; and it is for this reason that I wish that M'Lean had been

found guilty of the murder, as he should have been; and the other four transported for fourteen years at least.

The secret committee was a terrible engine. The identity of the three members of it was known only to themselves. It was destruction to disobey or question its orders, or even to whisper a conjecture as to who they were. It has no parallel but in the Roman Triumvirate or the Venetian Council of Three.

23d January 1838. I learned yesterday, on the most unquestionable authority, that some of the jury were *terrified.* The keeper of the Union-house urged upon them that their lives would be in danger if they convicted; and this, coming from a fellow supposed to be in his friends' secrets, had its effect.

I joined Lord Medwyn at the Glasgow Circuit on the 9th of January. I found every one in the deepest anxiety as to the result of the cotton-spinners' case in Edinburgh, which was unfinished when I left. At Glasgow, a man called Thomas Riddle was charged with the offence of compelling a workman by violence to give over working. His case fell to me to try; but he pleaded guilty, and was transported for seven years. I had no warning, and consequently no premeditation, but on the spot gave him an address which has had its full crop of undeserved praise. It was circulated

extensively both here and in England; and this solely because, while it pointed out the criminality of violence, it judicially acknowledged the innocence of mere combination, and thus removed the imputation that Courts did not do justice to workmen.*

This case reminded me of another in which I was counsel for the accused, and in which the principal witness, the man assaulted, was absolutely and entirely *lifted* into Court. He was a poor weaver, who, because he chose to work for less wages than they thought proper, was shot by these cotton-spinners (in 1825, I think) on the street in Glasgow in open day. The shot shattered his spine, and paralysed him all over, but left his mind unimpaired. He was brought in as a witness, lying in bed—the bed (without posts or curtains) being laid on a flat wooden frame, and placed on the table of the Court. He was pale and emaciated, with a fallen chin and feeble voice, but with a clear eye, though obviously dying. I scarcely ever felt more than when he lay before us, and, raising up his thin hand, swore, in answer to our absurd initiatory question, that he had no malice or ill-will at

* The case of Riddle and Lord Cockburn's speech in passing sentence are reported in Swinton's Report of the Cotton-spinners' Case (1838) at Edinburgh. (Hunter, etc., for Murder, etc., Appendix, p. 28.) The speech was referred to in the subsequent discussion on the Cotton-spinners' Case in the House of Commons. (Feb. 1838.)—ED.

the prisoner, to whom he owed the painful and lingering death which in a few days after closed his sufferings. My client would have been hanged if the law had allowed it; but unfortunately the Statute which makes shooting, though not fatally, capital, had not then been extended to Scotland. This miscreant had the merit of getting it done.*

8th February 1838. The first whispers of great discoveries are curious. We delight to read the speculations of those who, before Columbus settled it, were positive, and all on excellent reasons, that an America did or did not exist. What sportsman ever pursued a fox, or what mineral-searcher ever dug a mine, with such rapture as the man of classical taste follows the restorers of learning in their chase of a long-lost Greek or Latin volume. Any anecdote about the invention of printing, the telescope, or the steam-engine which discloses the hopes or fears of the inventors, or the demonstrations by opponents of the absurdity of their pretensions, has an interest which increases in proportion to the ultimate triumph of the invention. I have a pleasure in recalling, as I do, when the success of gaslight was more than doubtful, and the substitution of steam for sails was laughed at by everybody.

It is said that we are now on the dawn of another

* This was the case of John Kean—not reported, but mentioned by Alison ("Criminal Law" i. p. 164.)—Ed.

of those great improvements which change the condition of the human race. I allude to the supposed discovery of a new mode of producing heat far more cheaply, and without coal, than is yet known, by a person of the name (I believe) of Joyce. The first rumour reached this about a fortnight ago in a letter from Lord Brougham, in which he assures us that it will soon beggar all coalmasters, deprive poverty of its greatest suffering, send steam easily over the world, and make the poles comfortable. It has been much talked of since, but as yet the wonderful secret has not transpired, nor is the capacity of the new power ascertained, but people's faith in it is said to be evinced by above ten thousand orders having been given for the apparatus. Meanwhile some people are certain that it must turn out to be nonsense. Others are equally certain that even Brougham's eloquence in its favour is below its deserts. Housewives are calculating what the entire saving in coal, even when made cheap by the diminished demand, will amount to next year. Coalowners sneer and affect to be merry, but are not easy; gardeners dream of cheap hothouses; those who hold the flame and crackle of a fire to be the best part of it console themselves for the new methods only giving heat, by recollecting that there will, after all, be coal enough dug to let them have a bit of the old fire if they choose. Manufacturers are to change their sites, and Britain is to retain its monopoly no

longer. Our navy is to be ruined by the cessation of the Newcastle coasting trade, the best nursery for our fleets. Government ought to purchase the secret at any expense, in order to keep it from foreign nations. Philosophers pause, but their presently prevailing opinion is that something may come of it, and that there's lime in it.*

24th February 1838. The Radicals have been attacking the Scotch law and the Scotch Crown lawyers in Parliament, for the proceedings in the case of the cotton-spinners. They have got no decent support in either House. I never knew the proceedings of a Scotch Court triumphantly defended in Parliament before. The only important circumstance is the melancholy exhibition made by Brougham, who has taken up this hopeless case with almost incredible folly and bitterness.

He made a savage attack on Murray, the Lord Advocate, the oldest and most idolatrous friend he has upon earth, for his conduct in this cotton-spinners' case. It was a heartless charge; utterly groundless; but he was answered. Murray made (on the 13th

* 23d August 1838. The new heat has entirely cooled. It is now ascertained to be subject to three objections. First, it is dearer than coal; second, it is much less hot—scarcely hot at all; third, the little heat that it gives suffocates. Brougham was its great puffer, from what craze is not known.

instant) an excellent speech, which owed its success chiefly to the characters of the two men. He explained the utter futility of the accusations against our law and its administration, and then disposed of his noble assailant. He spoke here from the heart, with genuine sorrow and deep pain, refuting all his imputations by evidence, till he came to one which, rested merely on the words of the accuser, as to which after disclaiming all intention of pretending to compare himself in anything else to that distinguished person, he thought that *in honour* he was not his inferior, and that he would leave their comparative "veracity" to be determined by the House. The House gave its verdict instantly and decidedly. The Speaker (Abercromby) declares that the condemnation by the Commons of Henry Brougham as unworthy of being believed on a matter of fact, or for sincerity, was so loud and unequivocal, that it overwhelmed him to the extent of making him for some minutes incapable of almost seeing and hearing, and that all that has ever been said against Brougham before is slight compared to this death-blow, which owes part of its force to the evident reluctance of the grieved and generous hand that had inflicted it. Next day, Brougham denied in the Lords that it was the Lord Advocate that he had meant! "Could anybody be so absurd as to believe that I could allude to an old friend, who I knew was 400 miles distant from the transactions I was blaming!"

12th March 1838. I attended a public dinner on the 9th, given to William Allan, painter, on his being made President of the Scottish Academy. Lauder was in the chair. It succeeded very well. The Arts are advancing steadily and rapidly. Our Exhibition now open will probably draw £1200 at the door, and will certainly sell £2500 of pictures—probably more, including what are purchased by the *Association*, which is a society of persons contributing a guinea annually for the purchase of pictures, which are divided by lot among the subscribers. The contributors, who are scattered all over the country, will amount this year to about 2000—a fact which shows how the public taste is excited.* The Board of Trustees has now got the finest collection of casts in the Empire, London excepted, and it is open to the public. Everything marks the improving taste of the people. I see no ground for doubting that Scotland may become as splendid in art as it has been in literature. I have been struggling for two years to get the Academy some public support and recognition. I want £300 a year, a charter, and under the Queen's patronage the title of the Royal Academy. I have nearly succeeded twice, and I don't despair. Why should we, who have done more than London relatively, and more than Dublin absolutely, not get what they have?

* There was a similar attempt made in Glasgow, so far back as 1759. (See "Scots Magazine" for that year.)

Allan is a good artist, with a copious store of subjects and ideas derived from bright picturesque countries in which he has long dwelt, and is an excellent, simple, modest man.

19th March 1838. The close of this winter session has been distinguished by the decision in the Auchterarder case. The Court, by a majority of 8 to 5, has decided in favour of the pursuers, thereby deciding that the Veto Act passed by the General Assembly of 1834 is illegal. This is perhaps the most important civil cause that the Court of Session has ever had to determine. It implies that the people have very little, if any, indirect check against the abuse of patronage, and that the Church cannot give them any, but that presbyteries are bound to induct, unless the presentee be objected to *on cause shown;* that the mere unacceptableness of the man to the parishioners is not even relevant as an objection; that in law, the *call* is a mockery; that though it be the province of the Church to determine whether the presentee be qualified, it is not entitled to hold acceptableness as a qualification; and that it is competent to the Civil Court, *even when the temporalities are not directly concerned*, to control the Church in the pure matter of induction.

The majority made it apparent that their legal opinions were affected by their views of the ex-

pediency of the Veto Act. They wish to preserve patronage. I wish they may not have ruined it. The case will be appealed. The House of Lords will probably avoid deciding the great question, by disposing of the cause on some subordinate technical point. In my speculations, however, I assume that the judgment is to stand.

And I anticipate that practically it will be baffled. The Church will be on fire at the principles avowed by some of the Judges, which certainly go to impeach the very existence of the Assembly as a supreme ecclesiastical authority vested with the powers of spiritual legislation, which it has been exercising for centuries. It will probably resist any order to induct or to proceed with the induction of this presentee, and how the Court is to enforce its order I do not see. If the presbytery should be driven to proceed, they will not unlikely evade the order by finding the presentee not qualified, without specifying in what respect; or they will simply refuse to sustain the call, which though it be now held to be a mockery must in point of form be sustained; or they may cut the knot by depriving the presentee of his license; and these forms of defeating the Civil Court may be enjoined by the Assembly for the future regulation of all presbyteries. If the Church be in this spirit patronage won't be much the better of the late judgment. If the Church shall be disposed or compelled

to submit, patronage will be unchecked, and its recoil into increased abuse will undermine the Establishment and extend the Secession. Whatever may be the ultimate issue, the Dissenters are quite sure to be gratified by seeing the Church torn for a long while by discord. Its buttresses are falling every hour.

The case, both on its being argued and decided, created great public interest. It occupied more time than any cause I have known. It took the Judges seven days to deliver their opinions, which were all written. I thought Cranstoun's (Lord Corehouse's) clearly the worst, and perhaps Medwyn's the next. Both were full of learning that was useless, and which would have been useless even though it had been accurate, which it was not. What a curious taste it is that makes a man quote a person called Gelasius and the doctors of the third and fourth centuries upon a question of law touching the peculiar principles of a Church which never existed till about 200 years ago. The best opinion on that side was Mackenzie's. The best on the opposite side was Moncreiff's. The Procurator's (Robert Bell) was by far the best argument at the Bar; the Dean's by far the worst. Scotland won't hear the last of this Auchterarder case for the next century. I suspect that henceforth the Wild party in the Church are about to be set up in spite of all their faults by the wilder party in the Court.

26th March 1838. The Dissenters are gratifying their hatred of the Church by a proceeding which I really should not have expected from them. Government is willing to endow about forty schools in the wild and destitute parts of the Highlands, and has introduced a Bill to enable it to do so. If any attempt had been made to alter the existing parochial school system great discussion and opposition must have been provoked, and this benevolent subsidiary measure must have been lost or delayed till another generation of ignorant Highlanders had grown up. The Bill, therefore, merely enables Government to give the money and, leaving the general system to be improved as it may hereafter, simply brings the new schools under its rules so long as these last. I could not have conceived that there was anything at which all Scotchmen would have more rejoiced than at getting some new schools to these poor people. Nevertheless the Dissenters, though not one Dissenter probably is in these districts, have been petitioning against the grant, and doing everything to make it unpopular; and all because these schools are put under the presbyteries of the Church.

6th May 1838. While on the North Circuit this spring, I refreshed myself again with a walk over the ruins of Elgin Cathedral. What a pile! And what fragments! It is now in very tolerable order; cer-

tainly by far the best kept old ruin, public or private, in Scotland—a country which disgraces itself by its disregard of its ancient buildings, and the base uses to which it lets them be turned. The merit of putting Elgin in order belongs partly to the Crown, but still more to an old man who for above forty years has had the charge of showing the Cathedral, and has spent his life in clearing away rubbish, disclosing parts of the building, and preserving fragments—all literally with his own hands. The name of this combatant of time is John Shanks. "The rubbish," he says, "has made an auld man o' me!"—which, with the help of seventy years, it no doubt has. He used to have a taste for whisky, but always a stronger one for antiquities and relics of the Cathedral. He is now a worthy garrulous body; who can only speak however about the tombs and ruins, and recites all the inscriptions as if he could not help it, and is more at home with the statues of the old bishops and soldiers than with his own family.*

* Some years afterwards, on the death of John Shanks (by permission of the Office of the Woods and Forests, obtained by Lord Cockburn), a slab to his memory was erected at the outer angle of the Cathedral. The following epitaph, written by Lord Cockburn, was engraved upon it:—

"Here Lyes
JOHN SHANKS, Shoemaker in Elgin,
who died 14 April, 1841, aged 83 years.

For 17 years he was the Keeper, and the Shower, of this

I know no part of Scotland so much, and so visibly, improved within thirty years as Aberdeenshire. At that time the country between Keith and Stonehaven was little else than a hopeless region of stones and moss. There were places of many miles where literally there was nothing but large grey stones of from half a ton to ten tons weight to be seen. A stranger to the character of the people would have supposed that despair would have held back their hands from even attempting to remove them. However they began; and year after year have been going on, making dykes, and drains, and filling up holes with these materials, till at last they have created a country which, when the rain happens to cease, and the sun to shine, is really very endurable.

But the weather was dreadful, and so bad that we had happily no public procession at Aberdeen, but went to Court privately and respectably. The dignity of justice would be increased if it always rained. Yet there are some of us who like the procession, though it can never be anything but mean and ludicrous, and who fancy that a line of soldiers, or the

Cathedral; and while not even the Crown was doing anything for its preservation, he, with his own hands, cleared it of many thousand cubic yards of rubbish, disclosing the bases of the pillars, collecting the carved fragments, and introducing some order and propriety.

Whoso reverences the Cathedral will respect the memory of this man."—Ed.

= were behind him, in a wet day. = which I made Mr. = Milly Mitch up his gown. I forget who his colleague was. 8 Jan 1852. Tho. Lockhart.

This view of Lord Pitmilly, walk= ing in the old Circuit procession to Court in Glasgow, was done by John Lockhart, & is the very man particularly in the legs, Lock= hart & I =

Facsimile of Mr Lockhart's Sketch.

more civic display of police officers, protecting a couple of Judges, who flounder in awkward gowns and wigs through the ill-paved streets, followed by a few sneering advocates, and preceded by two or three Sheriffs or their Substitutes, with white swords which trip them, and a Provost and Bailies trying to look grand —the whole defended by a poor iron mace, and advancing each with a different step to the sound of two cracked trumpets, ill blown, the spectators all laughing—who fancy that all this ludicrous pretence of greatness and reality of littleness contributes to the dignity of Justice!* Judges should never expose themselves unnecessarily. Their dignity is on the bench.

We have had good specimens of the present condition of some prisons. One man was tried at Inverness for prison-breaking; and his defence was that he was ill-fed, and that the prison was so weak that he had sent a message to the jailor, that if he did not get more meat *he would not stay in another hour;* and he went out accordingly.

* The last Glasgow foot procession I remember being in as a counsel was about 1820. It was a wet day, and I have a view which John Lockhart, a master in the art of caricature, drew of Lord Pitmilly, with his umbrella over his wig, and his gown tucked up out of the mud, to the exposure of his Lordship's odd and well-known legs. It is the very man. Lockhart and I were behind him. I forget who his colleague was.

The Sheriff of Elgin was proceeding to try some prisoners, when he was saved the trouble, by being told that they had all gone out. Some of them being re-caught, a second Court was held, since we were at Inverness, to dispose of them; when the proceedings were again stopped from the opposite cause. The jailer had gone to the country, taking the keys of the prison with him; and the prisoners, not being willing to come forth voluntarily, could not be got out. Lord Moncreiff tells me that when he was Sheriff of Kinross-shire there was an Alloa culprit who was thought to be too powerful for the prison of that place. So they hired a chaise and sent officers with him to the prison of Kinross, where he was lodged. But before the horses were fed for their return he broke out; and, wishing to see his friends again before finally decamping, he waited till the officers set off, and then, without their knowing it, returned to Alloa on the back of the chaise that had taken him to Kinross, with them in it.

While on this circuit Lockhart's last volume of Scott's life was my companion—a sad sad volume.

Amidst much praise Lockhart gets much blame for his execution of this work. The blame proceeds chiefly from the idolators of Scott, who think that he should have disclosed no imperfection in his character or imprudence in his conduct; and from the friends

of the Ballantynes, Constable and others, whom Lockhart has abused, as they say, unjustly. To a great extent the indignation of the latter is well-founded. The censure of the former is totally groundless. A son-in-law perhaps ought not to have written the Life. But if he was to do it, it ought to have been done fairly. This might certainly have been done, however, though a great deal of the useless and vulgar matter which pervades the work had been left out. The author seems to have supposed that no further reason could be required for introducing anything whatever, except that it was true, and related to Sir Walter; forgetful that there is no day of the greatest and purest man's life with all the details of which the public has any concern. All Scott's peculiarities could have been easily described without the injustice and offensiveness of not only exposing, but of expatiating on the exposure of selfish transactions and paltry thoughts, which were probably immaterial at the time, but are represented in this "Life" as fixed and essential parts of the man.

However, upon the whole, I know no biography which gives a truer account of its subject. It is Scott to the life; at least as much so as any man can be exhibited to the public by words.

Whether the publication of this portrait will do any good to his memory is a different matter. It has greatly dispelled the fascination connected with his

name in the minds of those who only knew him through his works and his fame. They thought him purely a literary man. They have now been taught how much he was a tradesman, even in the exercise of his genius; and to what extent his taste for those feudal times, which form the charm of some of his finest works, was united with the practical obeisance of a vassal to his superior, and how very narrow and shallow were all his public views; and how much less he valued fame and literature than those results of them which enabled him to exercise an intellectual and splendid hospitality.

On the other hand how much—how very much is there to admire and to love! What extraordinary combinations of genius with industry; of glory with modesty; of the poetical powers without any of the defects of the poetical temperament. If the acquisition of money entered too much into his literary thoughts, who ever made so liberal a use of it, or one that so much extended the renown of his country? With a strong worldly head, great power of ridicule, an abhorrence of all sentimentality, and a manner naturally coarse, no man was so uniformly gentle. Where shall we find a steadier friend? A better man in all the domestic relations? What author ever passed through so splendid a career so utterly unspoiled? To what rival was he ever ungenerous? How noble the spirit with which he bore up against the wreck of his for-

tune! How honourable the feeling of justice and the ambition of ultimate independence with which he struggled for his creditors! If literature can boast of a brighter example of professional authorship with good sense, good conduct, and good manners; of inventive fancy with regular labour; of simplicity with unchecked success and applause; and of genius being never considered as any excuse, or even as any temptation, for the slightest failure in the performance of any duty—I know not where it is.

Dear Scott! When he was among us we thought we worshipped him, at least as much as his modesty would permit. And now that he is gone we feel as if we had not enjoyed or cherished him half enough. How would we cling to him were he to reappear! It is a pleasure, which the next generation may envy, that I still hear his voice and see his form. I see him in the Court, and on the street, in company, and by the the Tweed. The plain dress, the guttural burred voice, the lame walk, the thoughtful heavy face with its mantling smile, the honest hearty manner, the joyous laugh, the sing-song feeling recitation, the graphic story —they are all before me a hundred times a day.

20th May 1838. Dr. Murray, a sensible, plain, good lecturer on political economy, tells me this curious fact—viz., that a course of twenty-eight lectures, which he has just concluded at Dunfermline, was at-

tended by above 1000 students, almost all mechanics, and all paying a small fee. He says that when he announced the lectures they came because they expected to hear the doctrines of Radicalism demonstrated; but that being interested in the principles of wages, pauperism, population, combination, machinery, free trade, emigration, etc., and not stupefied by such subjects as money, taxation, banking, etc., they not only remained but made him double the length of the course, which was only meant at first to consist of fourteen lectures.

29th May 1838. Dr. Dibdin, the bibliomaniac, was here for a few days last year and saw very little, on the strength of which little he has published what he calls a "Northern Tour;" a mass of nonsense, for which, however, he has had the sense to make his foolish subscribers pay several guineas each. He did not see, or try to see, the libraries at New Hailes, or Barskimming, or Aberdeen, or Arniston, or Minto, or at many other places where they are far better than many Scotch ones which he praises. His time was wasted in courting and receiving low flattery. His account of the Edinburgh bookworms is ludicrous, and affords a fair test of his other expensive and splendid tours. He says that Macvey Napier's tablecloth was so beautiful that it might justly be "the boast of the *British Linen* Company!" My name stands

"high in the annals of humanity" for my generosity to the family of Burns! to no part of which family had I ever an opportunity of doing any, even the very slightest, good; not even by a kind word. And my brother-in-law, Thomas Maitland, is the author, it seems, of a work upon *Pawnbroking!* But every paragraph is equally asinine. He says that it is difficult to find any horse in Edinburgh except a gray one.

4th June 1838. The late General Assembly has made a considerable sensation.

The Church could hardly have been expected to be quiet after the decision in the case of Auchterarder. Nor could it be expected to be cool after the provoking speeches of a few of the Judges. Accordingly, the Assembly, by a majority of 183 to 142 (a very full house), passed a resolution declaratory of its independence; and it called the presentee of Auchterarder to the bar for serving a protest against the presbytery, threatening that body with damages if it did not proceed with his induction, but accepted his explanation that this meant no disrespect, but was done by the advice of counsel as a step in his civil action; and it refused to suspend the Veto Act *while the appeal from the judgment in Auchterarder was in dependence.* All this I think quite right. That is to say, all that was *done* was right. Their "*Declaration of Independence*" was in these words—"That the General Assem-

bly of the Church of Scotland, while they unqualifiedly acknowledge the exclusive jurisdiction of the civil courts in regard to the civil rights and emoluments secured by law to the Church and ministry thereof, and will ever give and inculcate implicit obedience unto their decisions thereanent—do resolve that, as declared in the Confession of Faith of this national Established Church, the Lord Jesus, as the Head, had therein appointed a government in the hands of Church officers distinct from the civil magistrate, and that in all matters touching the government of the Church her judicatories possessed an exclusive jurisdiction, founded on the word of God, flowing from God and the Mediator Jesus Christ, and is spiritual, having no temporal head on earth except Christ; and they do further acknowledge that this supremacy they will assert, and at all hazards defend, by the help and blessing of the great God, who in the days of old enabled their forefathers, amid manifold persecutions, to maintain their testimony, even to the death, for Christ's kingdom and crown; and, finally, they will firmly enforce submission to the same upon the office-bearers and members of this Church, by the execution of her laws, in the exercise of the ecclesiastical authority wherewith they are invested."

The very sound of these words recalled the old hill-folk. Those by whom they were now uttered, and whose Presbyterian blood they fired, talked openly of

the glorious days in which the blood of the Covenanters flowed on the hillside, and boasted that they were ready to let it flow again. Many people think the existence of such a spirit is of itself sufficient to condemn the whole party where it prevails. This, however, is a mistake. Such language and principles are vernacular in Scotch presbytery. An indifferent man may wonder at their being used practically in modern times; and on hearing them may think of Drumclog. But upon such matters the Scotch mind has not advanced or receded one inch since the days of Knox. Be it desirable or not, the taste of the serious Presbyterian portion of the people is the same now that it was then; and the legal constitution of their Church, as well as the phrases in which it is embalmed, have undergone no change whatever. Accordingly this taste, where it exists, absorbs every other feeling. Among the religious population of Presbyterian Scotland no difference of opinion upon any other subject disturbs the unanimity with which they all cling to the old objects of the Church's spiritual independence, and the popular hostility to unmitigated patronage. In this assembly the distinctions of Whiggism and Toryism were obliterated wherever their common devotion to our Calvinistic Church came into operation. And the force of this feeling could not have been more strongly evinced than it was by the fact that it produced an opposite

combination of equally discordant enemies. The Tory who in general upholds the Church, and the Radical who hates it, concurred, *when they were not religious,* in their condemnation of the measures of the Assembly. Wherever the religious principle prevailed — I mean the principle of devout Presbyterianism, it superseded all other opinions.

We must therefore deal with the Scotch as we find them; and as is done with every sect whose dogmas we may happen not to approve of. It is no reason for being unjust to the Catholics or the Jews that we don't like their tenets. It is equally foolish to attempt to suppress the claims of the Church of Scotland because we may think them strange or fanatical. The mere critic of manners or opinions may be allowed to sneer; but the statesman is bound to manage a people in reference to their hereditary feelings.

This exclusive addiction of its religious members to their religious objects and tenets has had one result, which is highly satisfactory. It has made it clear that no political party can be comfortable in using our Church as a political ally. It won't work with the Radicals, who are attached to the Dissenters. It is at fierce war with the Whigs, who won't drain the public purse, and persecute other sects, to please it. And it has now thrown off the Tories, who support

patronage, and attempt to make the Church surrender its spiritual supremacy.

This odd position is the natural result of the way it has been dealt with. From the beginning of Principal Robertson's reign till about four years ago, the Wild party was Whiggish, because the essence of the system introduced by him, and continued by his successors, was to repress the people, to uphold patronage even in its grossest abuses, and to discourage religious zeal. When the Whigs came into power, therefore, in 1830, there was a close alliance between them and this side of the Church. This, helped by other circumstances, gave them, who for above seventy years had always, except on a few detached occasions, been in a hopeless minority, the command of the Assembly, and led to the veto law, the admission of the ministers of chapels of ease, and the suppression of the Moderate party; being the three objects which the Wild had long most ardently desired. But the Whigs soon found that they had raised a most impracticable power. It was imbued with fanaticism; and therefore, as soon as the Catholics and Dissenters preferred those claims for the practical application of the principles of toleration which no Whig could resist, and as soon as Government even paused, though only for inquiry, before emptying the public purse to extend the Church, the old alliance between the Whigs and the religious party was at an end;

and for the last four years the intolerance of this party has been more implacable against the popular Government than the mere political factiousness of the Moderate has been.

When this feeling arose the Tories hailed and encouraged it. Their best weapon all over the empire has been the Church; and in Scotland their cry was, Whigs and Popery! Conservatives and Extension! In thus using the pious as a political tool, they were destined to have the very same fate with their political rivals. It was necessary that they should inflame the religious with extravagant notions of the importance of the Church, of its irresistible power, and of the absolute necessity of calling all its thunders forth. This is an invocation which is never made in vain to churchmen. Accordingly, for four years, our churchmen have taken their new friends at their word, and have acted so thoroughly on the assumption of the Church's omnipotence that they have almost thrown off their allegiance to the State, and are at present in disdainful hostility to the timid and astonished Conservatives, who decline to follow them in this lofty course.*

* Les Aristocrates avaient besoin d'un prétexte; ils prirent celui de la religion, et se réunirent aux prêtres, qui dans tous les pays indifférents à la forme de la Constitution et à la liberté des hommes promettent les secours du ciel au parti qui favorise le plus leur intolérance et deviennent, suivant leurs intérêts,

Still, I hold it to be certain that this assertion of its supremacy is within the words and in the spirit of our law. The Church of Scotland was established by brave and good men, who made it and meant it to be more independent of the State, and more purely spiritual, than any religious system that has ever been reduced to practice. I have no doubt, therefore, that the Assembly might lawfully effect the purposes of the Veto Act, even though that Act were to be set aside simply by exercising its lawful power over the qualification and the call. Hence (as at present appears) the cunning course would have been to have said nothing about supremacy, to have resolved to obey the final judgment in the Auchterarder case, and, if found wrong, to have attained the same end by other and by correct means. But these tactics are too calm and too worldly for inflamed spirits to whom impracticability seems often a positive recommendation.

The Extension Scheme is in a better state than its foes like, but not nearly in so good a one as its partisans wish. Government has intimated that it is willing to give the Bishops' teinds, amounting to from £10,000 to £12,000 a year, for the relief of the poor country parishes, leaving the affluence of the adher-

tantôt les appuis de la tyrannie d'un prince persécuteur, ou d'un sénat superstitieux, tantôt les défenseurs de la liberté d'un peuple fanatique ! !—D'Alembert, "Vie de Voltaire," p. 124.

ents of the Establishment to contend with the zeal of the Dissenters in towns; and that it will co-operate in getting that part of the Statute which prevents the Court from dividing parishes without the consent of three-fourths of the heritors repealed. It is said that Peel has let it be known that were he in power he could do no more. Nevertheless, the persons who arrogate to themselves the whole attachment to the Church that exists are frantic at the Ministry for their infamous niggardliness.

4th July 1838. Victoria the First was crowned on the 28th. It seems to have been a day of universal joy, loyalty, and good order. It was celebrated in Edinburgh by a public entertainment, fireworks from the half-moon battery of the Castle, an immense bonfire on the top of Arthur's Seat, an exhibition of Drummond lights from Salisbury Craigs and the Calton Hill, the opening of Granton pier, a holiday, and the free admission of the people to almost every curiosity. The two remarkable things were Granton pier and the opening of locked places to the populace. Granton pier is the first rival to Leith on the south side of the Firth of Forth, and will probably produce a considerable change in the trade of carrying goods and passengers to Edinburgh. Whisky is certainly one of the curses of Scotland. But in blaming the people for their addiction to it, we should recollect that we leave

them very little other amusement. A Frenchman, a German, or an Italian have their warm blue sky, their music, and their public walks and exhibitions. An Englishman has a climate in which he can often sit in the open air, his ale—a slow and rather soothing luxury, and his path through every field. A Scotchman's weather does not admit of his taking much of his pleasure with only the heavens above him, and when it does he finds himself sulkily excluded from every place of rational recreation. Not merely houses and house-covered curiosities are locked against him, but fields and gardens are fenced and barred, and his recreation must be confined to the hard highway. The tippling-house is his natural refuge against a system of moral Calvinism which considers the social and public recreation of whole families as dangerous or shameful. This is often attempted to be justified by saying that the people are mischievous. So they are, but why? Chiefly because they are not trained and disciplined to respect public works in which they have no interest. When it was proposed a few days ago to signalise the Coronation by having no place shut, it was predicted that every place would be spoiled. It is therefore an important fact that the prediction utterly failed. Every open place was crammed, yet there was no mischief or even accidental injury whatever. Nearly 20,000 went through the College Museum and the Museum of the College of Surgeons,

and probably above 40,000 through the Botanical Gardens, but not a preparation was touched, scarcely a border marked by a footstep. If the people were trusted, and felt that it was their own interest to protect the means of their enjoyment, publicity would be the true safety of objects of taste and recreation, *provided that mischief and disorder were always severely punished.*

CHAPTER VI.

1838-1839.

28TH JULY 1838. The Rev. Dr. Jamieson, the Scotch lexicographer, died here a few days ago. He and M'Crie were the only two dissenting clergymen who have yet had enough of literature to adorn the Scotch Secession Church. M'Crie was by far the superior man. He had more talent, more judgment, and more historical learning; but still Jamieson was very respectable, though in a lower walk. He was more of a compiler and annotator. His Dictionary, his greatest work, has errors and faults, for the etymology and the meaning of words must always to a great degree be a matter of opinion; but, on the whole, it is an original and valuable performance, and combined with the works and the celebrity of Burns and of Scott, may go far to fix Scotch as a language, perhaps not the less that it is going out as a spoken tongue every year. The Supplement is not so well done as the first two volumes. It ought to have been better, because during the seventeen years between them an immense addition had been made not only to the stock of our

words, but to the authorities on which they rested. Scott's novels, the Bannatyne Club, and, above all, Thomson's Records, and other publications, could have supplied a dictionary themselves. He has not made the full use of these mines.*

9th September 1838. I have been reading the four most interesting volumes, lately published, of Brougham's speeches. The publication is another of the thousand examples of his incomprehensible activity. The idea of collecting these speeches was suggested to him by Macvey Napier scarcely four months ago, and already has he furnished the whole material, written the introductions, brushed up the old affair about Greek eloquence, corrected the press as the sheets were sent to him from Edinburgh, and given the book to the world; and all this without the abandonment or even delay of any one of his ordinary pursuits, or the least abatement of the fiery zeal with which he prosecutes them. Though he speaks of himself in the third person in the introductions, the whole of them are his own composition; and if there were any doubt of this, the self-glorification which pervades them would be conclusive of his authorship with all who

* No modern book has better Scotch than "Blackwood's Magazine." The "Noctes" contain the best Scotch that is, but being all modern, and with no known names, it is scarcely a lexicographical authority.

know him. Even the description given of the evidence against the Queen in the introduction to the speech on her behalf (vol. i. p. 94), though given as a quotation, is his, for the quotation is from the admirable article in No. 135 (vol. lxvii., pp. 1-80) of the "Edinburgh Review," which he wrote.

I remember well the impression which each of these speeches made at the time it was delivered. Seeing them collected into a work and illustrated by notes makes me feel as if I had survived my age, or as if, after having been gone, I had awakened in the midst of posterity! And I see how much posterity must err if it shall credit all that is represented in these speeches, or in the deliberate introductions. His virulent abuse of the Whigs, his explanations of his reasons for at present abandoning them—reasons which imply that the whole party, including many of the oldest, the purest, and the best-tried patriots the country can boast of, men whose virtue, as he himself acknowledges, shone steadily amidst all the political vicissitudes of the last thirty or even fifty years, have all, with his own solitary exception, been corrupted by recent office, into a profligate desertion of their most sacred principles; his defences for not merely abandoning them, but for trying to supplant them, though this implies the substitution of a Tory or a Radical Government on their ruins—these are matters of general history, and I shall only say of them that I

hold his statements to be incorrect, his professions insincere, his abuse vindictive, and his whole conduct utterly indefensible.

His character of Francis Horner (vol. i. p. 643), like most of his characters, is, so far as it goes, well conceived and powerfully drawn; but whether are we to believe that the painter is insincere in his delineation, and that, knowing the imputation which has long rested on him in relation to the subject of the portrait, he has only attempted to soothe offended friends, or to show by a few strokes of his dexterous pencil how truly he appreciated the features of that beautiful character, or that, though really impressed with its virtues, he hated their possessor, a rival, for the very excellences which made his rivalship formidable? For the fact is, that *while Horner was alive* Brougham let his jealousy prevail, and always behaved to him with conspicuous unkindness, and it is only now, after death and twenty years have made him think justice safe, that he has either written or spoken a public word in honour of the memory of his distinguished schoolfellow.*

He takes credit for the cordiality of his patronage

* "I wish very much that Brougham and I were upon such a footing that I could state these things to himself, but that has been long otherwise." (Letter from Horner to Jeffrey, 16th July 1810. *Memoirs*, ii. 53.) "*His alienation from me, for reasons which I have never been able even to guess, is the only considerable misfortune I have ever suffered in my life;* and it would take quite a load

of the Scotch Burgh Reform Bill, the success of which he represents as entirely owing to him (iii. 351). No doubt he had the sole charge of it in the Lords, because this fell to him officially, but not because "*it was deemed expedient* that the whole extent of the measure should be left in the hands of Lord Brougham." For the truth is, that he was vehement against its being brought forward, and nothing but a peremptory appeal to Earl Grey by the strongest body of Scotch members that probably ever joined in remonstrating with a minister, overcame his resistance. Not that he was altogether hostile to municipal reform, but (which is worse), approving of it, he wished to obstruct this particular branch of it; partly because it was Scotch, a country which, since ever he left it, he has had the weakness to pretend to be ashamed of his connection with; and partly because it was pushed on before the Municipal

off my mind if he would give me a hint to catch at for forgetting that I ever had suffered it. I have always cherished the hope that we may in time approximate again." (Horner to Jeffrey, 18th January 1811; "Memoirs," ii. 74.) The generous hope was cherished in vain. Nothing is more curious, considering the man, than Brougham's *biographical* candour. He has always been remarkable for the fairness and even for the charity of his estimate of character when he is merely trying to describe it. The oddity is, that his estimate, however favourable, has no influence whatever on his conduct. No man has had a greater number of excellent friends than he has, but I doubt if there be above *three* to whom he has not behaved ill. Candour in describing men, and candour in dealing with them, are quite different things.

Reform Bill for England, and therefore dimmed his splendour in bringing forward that measure. He certainly made a tolerable speech on the Scotch bill at last, but he engaged in the matter reluctantly, and there is no man to whose good wishes the burgh reformers of Scotland owe less.

He denies (iv. 71) his saying at the Grey festival in Edinburgh, that "if little had been done in last session, less would be done in the next," and that Lord Durham had attacked him for this sentiment and for dissuading rapidity in reform. He is incorrect in both statements. He used these very words, and dissuaded this very thing for which Durham made as distinct an attack as could be made by allusion, and without the rudeness of breaking up the meeting; and if Brougham did not see this, he was the only person in the room who was so blind. He was quite right, and Durham quite wrong; and if he had not taken up a new position since, he would most justly boast of his own sense and Durham's folly. But he is now anxious to cast odium on his old colleagues for acting in the spirit of his own admonition; and being now at open hostility with Durham, partly on account of this very attack to which he thinks it paltry to have submitted, he denies the fact.

He repeatedly lauds Earl Grey, and calls him "his steady and faithful friend." How far this fidelity was reciprocal will appear when the secret history of Earl

Grey's retirement shall be better known than it can be from Brougham's assertion. Meanwhile the indignation of all Grey's family was such that a painful anxiety was imparted to the festival by the fear of Durham making a worse explosion than he did. As to the feeling of the "*steady and faithful friend,*" I saw these two remarkable men meet at Oxenford one day before the festival was held, and nobody who witnessed the scene can ever forget it. Brougham was rather late, so that his annunciation and entrance were distinctly observed by a party of about fifty persons, and both he and Lord Grey, who were the wonders of the room, felt this. Brougham walked directly up to Grey, who was standing conversing, and made the gesture, though timidly, of one intending to shake hands. Lord Grey made no corresponding gesture, but drew himself up, made no sign of recognition, not even by a word or bow of formal civility, but in steady silence looked a calm repulse, which the Chancellor felt and acknowledged by turning aside to somebody else. The two did not exchange a word during the whole evening, though Brougham visibly courted it.

It is impossible to contemplate this astonishing person without the highest admiration and the deepest sorrow. His character is marked by such strong lines, and has been evolved in such unequivocal facts, that it is liable to no material doubt. Its peculiarity, or at

least the circumstance which, for the sake of the warning, others have the greatest interest in observing, consists in the contrast between the excellence of his intellectual and the defects of his moral nature. No man has appeared on the public stage in my time with more powerful ability. There is no subject which his understanding cannot master; and this appeared as early in life as was possible without the fatal sign of unnatural maturity. While under twenty his tastes for mathematics were so promising that it was a common anticipation that his life would be given to philosophy, and that this was the only walk worthy of so ardent an inquirer.* The publication, while he was only about twenty-three, of his work on Colonial Policy changed this into a prediction that it was in moral science (but still only didactically) that he was destined to shine. Amidst these purely philosophical studies, however, the fire of political ambition was kindled, and soon led him into that public region where it has blazed so intensely ever since. But the "Edinburgh Review," to which he has been a contributor

* "I told him (Playfair) that he (Brougham) was for the present wholly absorbed in political schemes, with the view of bringing himself into action, though I thought it not an improbable event, if he were disappointed in his immediate views, that he might bury himself for the remainder of his life in retirement, devoted to science and literature, and occupied with some vast scheme of literary ambition."—(Horner's Journal, 26th August 1804. *Memoirs*, i. p. 259.)

for above thirty-five years, attests by a profusion of effective articles how ardently his tastes and his powers for literary and political discussion have always been exercised. And there are many other achievements which show that his varied intellect is equally at home in the storms of public contention or in the calmer researches of science—whether occupied, as in the Queen's trial, with complicated details, or, as on the Orders in Council, Slavery, Education, and Pauperism, with general principles; and that, while there is nothing so large as to be beyond his grasp, there is nothing so minute as to escape his detection. Deep and quick, not to be excelled in the readiness of debate, yet capable of conducting slow processes of meditation, the pursuits of his life have trained him rather to habits of ready apprehension and decision than to those of patient thought. His memory is retentive and ready both for facts and for reasonings, but not so much enriched, as his parade of quotations might seem to imply, with literary recollection. Passion is stronger with him than imagination, or rather it is the first that chiefly excites the latter; and accordingly his is not the fancy that sustains itself quietly and happily in its own tastes and creations, as Fox's did amidst even his most engrossing public struggles. But the faculty is in him; and breaks out whenever this is useful for the exhibition of lofty views, the outpourings of benevolent sentiment, the

indignant exposure of criminality, or any of the other purposes of eloquence.

These vigorous faculties have always had ample and worthy matter to work upon. His mind no sooner began to open than it devoured and digested knowledge; so that, independently of literature and science, which he continued to cultivate chiefly as auxiliaries and ornaments, few politicians—not even Burke—have brought to the business of practical politics a larger acquaintance with everything touching the history and prospects of man. The moral philosophy of Stewart (though Brougham had no reverence for him) could scarcely fail to inspire his studies by splendid views of the past and future progress of the human race, and of the eternal principles on which the improvement of our species depends; and he advanced towards public life at a period when the convulsions consequent on the Revolution of France made the history of nations, the policy of Governments, and the lives and characters of public men, the subjects of constant and eager discussion with all inquisitive minds. Brougham gave his whole soul to all such interesting and elevating matters, and if it had been his fate to have entered Parliament at the earliest possible age, he would from his first appearance have been able in point of knowledge to have coped with any of the great men then upon the scene. His preparation went on; and his profession, and the "Review," and all the political busi-

ness which an ardent man may be engaged in without being in Parliament, supplied him with constant occasions for study and discussion; till at last he had scarcely a competitor in the possession of that liberal and universal information which has imparted so enlightened a character to all his subsequent exertions. And even yet his avidity of knowledge is unquenched, as rarely fails to be shown when a new and great subject (in dealing with which he is under no bias) is brought forward; when he scarcely ever disappoints the public expectation that his is the information that is to explain it, and his the principles that are to guide.

The two branches of knowledge in which he is least eminent are classics and law, and of all others they are the two in which he is most anxious to be thought original and profound; but this is because he sees their value and feels his deficiency. A general taste for the classics he has; and indeed it would be difficult to conceive how a mind like his could avoid being touched by the inspiration of ancient genius; but he is no scholar, not even such a gentlemanlike scholar as often appears in Parliament, yet falls far short of everything like accurate or deep classical learning. His legal knowledge, though aided by talents which no man at the Bar could approach, was too slight to enable him to reach nearly the summit of his profession as a counsel; but its deficiency is

not the only cause of his comparative failure as a judge.

His industry is stupendous. It is absolutely impossible to exhaust it. Neither his profession, when he was second on the Northern Circuit, nor the House of Commons, nor the general charge of the affairs of the wronged all over the world, nor the labour of the Chancery, when it required the arrear of many years to be cleared off in one, joined to the other toils of the Chancellor, and managing and speaking every night in the Lords on new and great measures, had any effect in subduing him. Half of these would have crushed any ordinary Hercules; but the whole was no labour to him. He still was at leisure for establishing schools and writing lectures for them, for superintending the composition and publication of books of popular knowledge, for contributions to the "Review," for writing pamphlets, for reading all the material productions of the British and French presses, for gay society, and unnecessary letters. And this habit of gigantic achievement is sustained without any of the ordinary feeling that toil, though it may be gone through, is at least oppressive. It is not by plodding that he does it; or by the power which drones and drudges acquire of conquering wearisomeness by mere obstinacy and perseverance. He is carried through by an ardour of temperament, which defies fatigue by making him

unconscious of it. His prevailing condition is that of vehement energy. Even in pursuits that require prolonged thought he is all ardour. His very meditation is intense. The bowstring of his spirit is never slack. If this nervous and resolute vigour sustains him through long periods of study or the painful unravelling of overwhelming details, it may be imagined with what exulting triumph it bears him over all the obstructions of ordinary life. Upon these it is his pastime to trample. While others, and these strong men, are weary and alarmed, and thinking of turning back in despair, Brougham, to their wonder and dismay, is dashing disdainfully on, and has not only finished the business which appalled them, but is far advanced in some new affair. Nor is it merely by inflaming his industry that this vigour operates. It puts nerve into all he says or thinks, bracing every faculty and every effort, and imparting force and intensity to his conceptions and language. With a strong natural talent for sarcasm, a disposition always sure to be confirmed by the provocations of political hostility and by its uses in debate, this unrelaxing energy has given the hardest and the sharpest edge to a habit of irony, which pervades his whole life, and constitutes indeed one of its prevailing indulgences. Talent, and knowledge, and industry, and ambition, and ardour, all devoted to public affairs, could scarcely fail to produce eloquence. They are its elements.

They have placed Brougham among the highest of British orators. Instead of trusting to these, and proceeding to practise instinctively under their impulse, perhaps no practical speaker ever analysed the sources of his art with more attention than he has done, or studied so skilfully to introduce its principles into actual debate. He is not one of these conceited and shallow speakers who think mere readiness the chief merit. Though quick, and one of the most self-possessed of men, he knows that oratory is produced by weight of matter and force of sentiment, conveyed in language and in a manner depending on rules and on tact, and that these can only be acquired in their highest excellence by profound reflection and observation; and that the superficial and momentary applause bestowed on extemporaneous rapidity, is insignificant when contrasted with that forecast eloquence which, being drawn by premeditation from the depths of human nature, bends the wills of those who hear it, stamps itself upon its age, and moves all times. The great passages of his speeches, especially the perorations, have not merely been prepared, but carefully and avowedly written and re-written and committed to memory; but then they were kept so fresh in the mind, and were so well conceived, that they ran into the adjoining matter naturally, so that no eye could discover the junction, and, if it did, would only have the more admired the perfection of the art. Incessant

practice constantly corrected by culture has given him a thorough command of our language, which he has always affected to improve by the study of old English, though it may be questioned whether this has not tempted him into as many odd expressions, merely because they are not modern, as it has given him good old ones. There is no matter that he cannot handle, except perhaps wit; which, though he has jokes and ridicule enough, is not one of his weapons. His want of it was the only thing that gave Canning any superiority over him. In the array of facts, the exposition of principles, the display of great views, the exposure of folly, the denunciation of guilt, whether these be exhibited undisturbed in an opening speech, or when combined in a reply with all that has emerged during a debate, he is uniformly admirable. But it is when he soars in the highest region of eloquence, and lets himself loose in sustained flights of indignant or argumentative declamation, or blasts an adversary with the lightning of his invective, that the glory of his powers is seen. His sarcasm is terrible. Seldom deep and short, not pointed by epigram, exposing by a phrase or extinguishing by a saying, but exterminating his unhappy victim by storms of ridicule, indignation, and contempt, in which there is far less concern for correctness, candour or due measure, than for whether the wretch has been annihilated by the tempest that has passed over him.

These displays of penal eloquence are so striking, and his temper and position make them so frequent, that they are sometimes thought to constitute his peculiar walk; but this is because all such exhibitions are agreeable to the spectators; for though certainly no sarcasm can be more cordial or withering, there is a far higher charm in those pure and magnificent unfoldings of views and principles, in which, when liberated from personalities, his genius seems sometimes to delight. But this charm is for the hearer; for the orator himself enjoys nothing in his own eloquence so much as its ferocity.

He is tall and gentlemanlike, with a powerful voice, yet, except when roused, of almost feminine softness; a face strongly expressive—even when not deformed by a nervous twitching at the nose—of the almost savage irony and jocular mischief so habitual to him; an erect attitude, distinguished by a solemn projection of the right arm, and the opening and shutting of his long finger-like claws impatient for their prey. But his gesture on the whole is natural, simple, and elegant, except when the paroxysm of scorn is upon him, or he is elevated by one of his lofty strains of indignation, or inspired by a noble appeal to high principles or distant ages, when he falls into any attitude, however vehement, which suits the animation of the passage.

Until lately, these faculties and this eloquence

have been awakened and dignified by the objects to which they have been devoted. Since Brougham came into public action all the great contests that have redeemed the present age from the errors of the last, and given the world in a reformed state to the next, have arisen; and the zeal with which, till recently, he has always espoused the wise and just side is worthy of all admiration. What a succession of subjects!—involving not only many great individual cases, and everything important in the policy and system of this particular country, but the rights of freedom wherever oppression existed, the universal diffusion of knowledge, and all the principles on which the happiness of the earth and of each of its nations depends. Wherever the historian shall find these to have been discussed, there will he find Brougham—foremost, and sometimes alone, combating for humanity, and always invested with the glory of his powers and of the cause.

But ambition has its kindred faults. It is only a generous nature that can remain affectionate or candid under the long habit of personal contention. Self-willed and imperious, with an irresistible passion for domineering, and boundless confidence in himself, the display of his own talent is far too often his ultimate object. Preferred to the carrying of great ends, not only the success of his party but even his own power is too often sacrificed to it. Whatever the result may

be, he must shine and be feared. The very people he is vehement for often inwardly wish that he had let them succeed or advance quietly, instead of endangering their cause by the splendid intemperance of his championship.

One of these defects, not uncommon with ambition, and a part of his passion for being and for doing everything himself, is his dislike of every rival. Such men as Wellesley, Romilly, Wilberforce, Grattan and many others whose pictures he has drawn with a friendly hand, were put out of his way by age, station, and established public place; and there were others, such as Sharp, Clarkson, Lord Archibald Hamilton, Lord Rosslyn, Mackintosh, and Creevey, who though occasionally engaged in the same struggles with him, were not at all on his path. These, and others who are easily accounted for and are dead, he has described favourably and with a perception of their peculiar merits. But there never was a direct personal rival, or one who was in a position which, however reluctantly, implied rivalry, to whom he has been just; and on the fact of this ungenerous jealousy I do not understand that there is any difference of opinion. I wish it could be said that injustice was all that it ended in; but none of his sentiments, and least of all his hostile ones, are moderate; and many instances show that this disposition taints his whole feelings towards its objects, and impels him implac-

ably to their suppression. His impatience of contradiction, and consequent intolerance in business, is partly the result of his celerity of apprehension and peremptory reliance on his own infallibility.* It is to this, more than to his unacquaintance with law, that his comparative failure on the Bench is to be ascribed. Deceived by his quickness into the idea that he can know everything intuitively, he is a restless listener; and strong in his faith in all his own results, he inwardly disposes of arguments with the disdain belonging to that sort of independence which makes a man prefer being probably wrong in his own way, to his being more probably right in another person's way. Far less intelligence and industry than his, if united to due patience, may make a great Judge. It was unfortunate that during the four years he was Chancellor his want of modesty as a hearer, and of caution as a weigher, was encouraged by the very natural ambition of contrasting his promptitude with his predecessor Lord Eldon's procrastination. Whenever he has chosen to apply himself deliberately to the dis-

* It is characteristic of the man that in delineating the character of Chatham ("Edinburgh Review," No. 136, Article 8) the thing that he chiefly admires is his Lordship's doing the whole business of the Government himself personally. His compelling the First Lord of the Admiralty to subscribe orders for his own officers, without knowing what they were, is exactly to Brougham's taste.

posal of an important case he has generally given a respectable judgment. But no man can be a good Judge who discloses essential faults in the common cases, whatever occasional excellences he may exhibit in the great ones.

Had it not been for his moral failings, Brougham, inferior to no modern statesman in eloquence, and superior to them all in knowledge, enlightened views, industry, and fire, would have been the greatest man in civil affairs of this age; but neither genius nor oratory, even when worthily excited, can command their natural influence when combined with habits which create enemies hourly, or when exposed to the imputation of heartlessness or insincerity. Accordingly, with all his powers and celebrity Brougham has never been at the head, as its *trusted* leader, of any party. Even when crowned by all the applause of the country he has never been relied upon by those who, instead of merely cheering as spectators, were acting with him on the public stage. These persons have often taken his speeches and joined the world in admiring them, but they have as often shrunk from defects which were hard to bear, and made co-operation impracticable, and have never considered their affairs as safe if committed to his guidance. Nor even with the public has he ever made that moral impression which has been produced by men of far inferior intellect. To say nothing of the sacred name of Fox, what feelings attach to that

of Wilberforce; what reverence adheres to the idea of the pure and noble Romilly; how affectionate the admiration and sorrow that still linger over the urn of Horner! Brougham was an equally zealous, and a more eloquent associate with them in all their struggles, but the virtues of these men gave them more influence than any talent can ever command, and the mere recollection of their characters still continues to promote the improvements they recommended. Brougham has compelled all the world to admire, and most of it to fear him; and for many years he has guided this nation in the formation of sound views throughout that revolution of opinion which has agitated men during his day, and has always been above the paltriness of pecuniary temptation, and his fidelity to his principles and party was never impeached till lately; yet he has never had any following of the heart, his very eloquence has often suffered from its disclosing insincerity, and this generally in passages which obtained and deserved the loudest applause.

His present independent position too amply illustrates his destroying defects, and no doubt aggravates them. His account of it is that he was ill-used by the Whigs, and then abandoned by them without cause; that nothing personal, however, would ever have made him abandon his party; but that they have also deserted their principles, and calumniate him because he

adheres to his. Their explanation is that such a man as he could never be kept by them from the public official service had not the objections, as emphatically stated by Lord Melbourne in the House of Lords, been "*absolutely insurmountable;*" and that from the moment of his exclusion, regardless of everything but revenge, he vowed the destruction of his old associates. Many of the facts connected with his exclusion can only be known to a few, and may never be known publicly. Meanwhile all appearances are against him, and the probability must always be against the individual whom, though his support be valuable and his opposition formidable, his whole party unites to cast off.

8th November 1838. We leave Bonaly to-morrow for the winter session. It has been a comfortless summer; cold, wet, and stormy, and tormentingly precarious even in its badness. I had a few beautiful days for Loch Lomond and Loch Fyne on the west circuit in September, but there has not been one steady week—one week to be depended upon during the whole season. I remember some years ago that Lord Holland was held to have insinuated a base sentiment, because, when the Neapolitans were pitied on account of some slavery to which Austria had subjected them, he remarked that no tyranny could deprive them of their climate, as if climate was any compensation for

loss of liberty. But will any sensible man say it is not? There is no such external compensation for every evil. Jeffrey was much nearer the truth when he maintained that excluding imprisonment, torture, want, and all direct infliction, and taking into view merely what are called the blessings of liberty, the loss of them was not such a deduction from happiness as the loss of a leg. Yet he must have a curious taste who would not prefer the climate of Italy with one leg to our late Scotch summer with two, or even with four.

12th December 1838. The growth of the modern things called testimonials is very curious. This word used formerly to signify merely a certificate of merit, but it has come of late to denote a much grander thing —a sort of homage always as a donation, and generally in a permanent form, to supposed public virtue. Such offerings were rare formerly, because the people were less excited and less divided into sects. The community lay flat, under one predominating State and one predominating Church, the ardent supporters of which expected to get, and not to be asked to give. Now the two great political parties of Whig and Tory, and the two great ecclesiastical ones of Establishment and Dissent are not enough. Each of their branches has stooped to the ground, and produced new roots and new fruits of the parent tree; and in addition to this

multiplication of the parent stock we have numberless exotic occasions for patriotism which our fathers never heard of. Think of our parliamentary elections, and municipal elections, and parish minister elections, and popular lectures, and mechanics' associations, and young ladies' colleges, and a thousand other things, every one implying a knot of people knit together as a party, each party with its hero, and every hero with a stage and an audience every day. Then everything is published now-a-days. No man dares propose no printing, even in matters of business, because he is sure to be pilloried ever after by those pests of modern life—the gentlemen of the press; and one bad and direct effect of publication is that it generates oratory. Everything is done on the principle of a public meeting. If six benevolent ladies meet and plan educating a poor orphan whose father was killed by falling from the roof of a house, there must be a preses, and a motion put and carried, and advertised. A short time ago I was at a meeting of the heritors of the parish of Colinton. There were only five persons present, the lairds of Dreghorn, Comiston, and Redhall, and myself, with the schoolmaster for our clerk. Dreghorn was voted into what was called the chair. Redhall moved that somebody should get £5 to mend a road, but Comiston *moved the previous question*—a deep stroke, which he and I carried, and so the meeting ended. Society is all spotted and bubbling with these little senates, in

every one of which there is at least one great man; and no sooner does one of these great men distinguish himself by some brilliant flight of virtue, and get bankrupt and remove to Australia, or become doited (which is called retiring from public life), or resign, than his admirers, prompted by some one ambitious of a beautiful speech, get itching for the expression of their emotions, on which there is a meeting, resolutions, a subscription, a soiree, and a grand presentation. Some of these things are respectable, well deserved, well done, and useful; but some of them are absurd, and their frequency makes even the best of them somewhat ludicrous. There was a large public dinner a few months ago got up at Carlisle by the bagmen who resort there, in order to present a silver cup to the head waiter of the inn. Certain of our Commissioners of Police (chiefly the Dung Committee) lately patronised a festival and a presentation to the inspector of the cleaning department. Many are the eloquent town-councillors, popular ministers (chiefly Dissenters), learned presidents of literary societies, polite mail-coach guards, and skilful captains of steamers, whose chimney-pieces are to be adorned to all generations by such gifts.

In estimating the value, either morally or commercially, of these honours, all contributions which, however they may be disguised, are truly charities, must be discounted. I don't include the tax which

the Irish impose on themselves yearly to pay O'Connell's Parliamentary fee, nor the £8000 or £10,000 raised to save Abbotsford or its library from Scott's creditors, nor the £5000 or £6000 contributed in Glasgow three years ago for Cleland the statist, and given to him in the substantial form of what is now known as "Cleland's Buildings." These are not pure *testimonials;* neither are statues nor monuments. The testimonial, strictly speaking, is only an offering of gratitude or of admiration to a living person, presented in a form or substance calculated to perpetuate his mere glory in his family.

22d December 1838. There were great Church gatherings here and at Glasgow on the 20th in commemoration of the famous General Assembly of 1638, which abolished Episcopacy and set up Presbytery nearly as we have it at this day. It was a striking occasion, but thrown away. Instead of making it the celebration of a triumph over oppression, and joining in rejoicing over the things in which all the friends of Presbytery agree, it was made a scene for the display of everything in which they differ. In Edinburgh it was an anti-ministerial and anti-patronage meeting, so ardent for further endowments, and so illiberal towards even their Presbyterian brethren of the Secession, that I believe there was only one Dissenting clergyman present. If a right spirit had prevailed they would

all have been there; but it must have prevailed on both sides, and the Dissenters are just as intolerant of their Established rivals.

I have been reading the proceedings of the Assembly of two centuries ago. It is astonishing how little the descendants of these men are changed. Indeed, unchangeability belongs to every sect that adheres to its principles, unless the principles be variable. Our forefathers believed that presbyteries such as they set up, and particularly with an independent spiritual government in the Church, was the only ecclesiastical system warranted by Scripture. For holding this opinion they were long and sorely oppressed by Popery and Prelacy; and when, after a struggle that did them honour, they triumphed, the feelings and recollections of the flames they had passed through descended with their creed to their posterity. Hence there is the same ignorance, or rather horror, of toleration, which to an ardent sectarian means winking at error, the same sensitive resistance of encroachment, and the same passion for encroaching, the same wild metaphysical theology, the same love of the domination of a Church of which the domination is made more attractive by the infusion of so many of the laity into the ecclesiastical Courts. We owe much to the Covenanters and to their class, because it so happened that they could not maintain their Presbyterian principles without advancing principles of civil liberty; and

it is impossible not to admire and be moved with the courage and endurance with which they braved their unmerited sufferings. In reading any of the ancient proceedings of our Church, I am always struck with wonder how any person can discover in them evidence of an intended subjection by our old ecclesiastics to the civil power in relation to the qualifications, calling, induction, or deprivation of ministers. If the Auchterarder case had occurred in 1638, or at any time for a century afterwards, the patron would have been set in a white sheet at the church door, the presentee deposed, and the Court of Session excommunicated. Some hold this to be a proof that wise men ought to discourage the vices of old Presbytery that still prevail. So they ought. They should individually give all that discouragement to whatever imperfection adheres to anything good that can be supplied by reason. But it does not follow from this that whatever is offensive to the wise must be offensive to the people, and still less that *Governments* are ever entitled to trample on religious principles which the people imitate their fathers in venerating. Every sect on this principle might crush its rival by force. Even if it were settled what was wise, the world can never be made to adopt wisdom by compulsion. The antiquity of the Scotch creed, and even its picturesque peculiarities, considering how intensely and how generally it is clung to, are the very circumstances which make it oppression

to interfere with it, except by gradual change. Those who fancy themselves philosophers may sneer at religious enthusiasm, but while our present human nature endures, it can never be discounted in the practical management of human affairs.

29th December 1838. Yesterday a magnificent testimonial was privately presented by a deputation at Riccarton to Sir James Gibson-Craig,* whose health did not admit of his receiving it publicly. It consisted of various pieces of silver plate, worth about £1500. It came from political friends, and was given for political character and services. No man ever deserved such an honour better. He has not flinched one moment from the public cause for above half a century, or ever varied in his leading principles or objects. Nor has his energy been greater during the existing triumph of his party than it was in 1793, when independence was eminently dangerous, and its success apparently hopeless. His real value will be felt when he is gone. Scotland can supply no substitute. I enjoy the feelings with which this honour will delight his most excellent family. For himself, he stalks about, stamping indignation at the whole affair, and scarcely could be brought to behave decorously to the deputation. Yet the retrospect of the course which has led to this tribute swells his

* See Cockburn's "Life of Jeffrey," vol. i. pp. 250-252.

manly breast with just pride, and brings tears into those kind and honest eyes.

18th February 1839. When I heard Sir Charles Bell deliver his first lecture in our college in November 1837, I saw on his notes the figure of a man firing a cannon, a cat, a horse rearing, and other odd-looking pictures. On inquiring what they meant, I was informed that he always speaks from notes, and all his notes are hieroglyphics. I asked his wife to steal one of his discourses for me; and she has just sent me this paper, being his first lecture in the London University. What a strange habit!

Facsimile Notes of Sir Charles Bell's first lecture in London

To Face Page 216. Vol. I.

I Lec.

It would be a relief. — might be ruin?

The Freedom of Pupil

Two parties!! His Lord shut off Tradesman.

Lecture Room Hospital. Dissecting R—

Phys. & Surg. two duties.

Hint of Teaching. glorious

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John Succession.

Acq. time shame.

Implants of

Apportunity- today.

Good Sir Jos. B.

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Mem: John dissecting the Soldier's head was the Object of his

whose surgical

(284-a

Vesalius.

In a Storming night.
The Skeleton is engraved in his great work.

Sacrilege !!

(Island of Zante. Christ them.

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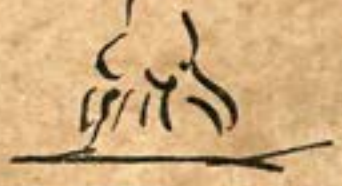
Rugsby.

An Art to Cultivate

In 3 years. my young men have made it —



An Art to Cultivate

An Art to teach —

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who had been Little fellow. Standing a Chair to dress at

CHAPTER VII.

1839-1840.

26TH FEBRUARY 1839. The Lord Chief Commissioner* died here on the 18th instant, aged about eighty-eight. It was a beautiful old age. The lamp burned brightly and sweetly down to the very socket. He was quite blind for the last two years, which, as he managed the calamity, only quickened the acuteness of his hearing and of his intellect, without in the least impairing his cheerfulness or activity. Intellectual pursuits cheered his decline, such as dictating notes on Fox's history, connected with Fox personally; and time with all its deadening or irritating tendencies, and a body with many infirmities to work upon, never chilled his heart or more than animated his temper. He was a bad writer; indeed with a pen in his hand he was a poor thinker — defects which have marked other strong-headed practical men. But his turn for hard worldly business never extinguished or superseded his taste for useful mental pursuits; and though no one liked less to be thwarted or could comminate better, it was

* "Memorials," first portion, published in 1856, pp. 296-299.

really delightful to see the kind gentlemanly spirit with which he spoke and felt of all his obstructors. I cannot conceive that he has left a single enemy behind him. To his family and friends he was the sun. There are few persons from whom a diary would have been so valuable. He was in the heart of everything for the last sixty-eight years, including the Courts of George III. and IV., and all the politics, and literary and political characters, and the lawyers, both Scotch and English, since about the year 1771 or 1772. His anecdotes, and stories of men and of events, were always instructive and amusing, and always given in that delightful spirit of natural kind politeness and overwhelming boyishness which not only made himself young but everybody about him, and he had the good sense never to lose his Scotch tastes. A Scotch dish, a Scotch song, a Scotch phrase, or dance, or tune, or practice, or peculiarity of any kind, always inspired him; and Scott himself could not do them more justice than he did. The more I see the more I am satisfied that Scotland owes its civil trial by jury solely to him. He hurt it no doubt by not being a better Judge, but without his other powers the greatest Judge that ever lived would not have saved it.

30th March 1839. In January last we were all saddened by the unexpected and melancholy illness of Corehouse. As he was sitting quietly, and apparently

in perfect health, at his own fireside, he was struck with paralysis, and now he has resigned. He will be a very great loss. His learning, legal reasoning, character, and general intelligence, gave him great weight on the Bench; and his abstinence from all vulgar contention, all political discussion, and all public turmoils, in the midst of which he sat like a pale image, silent and still, trembling in ambitious fastidiousness, kept up the popular delusion of his mysteriousness and abstraction to the very last. He was more of a legal oracle than any man of my time. Yet even as a Judge he had very considerable defects. Cold, stiff, and precise, his manner attracted none and averted many, and made him unpopular without increasing his weight. Like some other great legal artists, he thought plain sense, obvious equity, and practical explanation beneath the dignity of the lawyer, and was apt to make his art ludicrous by legal pomp, by announcing intuitive truths in a Roman maxim, or seeking an out-of-the-way authority for an obvious principle, or expounding simple doctrines with judicial formality. Above all, he never freed his mind from the prejudices of the old and narrow school of legal procedure in which he had been educated. He used to avow that he looked back with a sigh to the days of the undivided fifteen-judge Court, of written pleadings and of endless petitions; and he had a fatal antipathy, for a modern Judge, to trial by

jury in civil causes. He knew nothing about it, and did not wish to know anything. He never tried a cause; and, except once, or at the most twice, was never counsel in one. This vain resistance to the current of the age soured his general judicial taste; but his excellences were rare and of a high order, while his defects were compensated by the commonplace qualifications of others; so that, on the whole, his merits greatly predominated, and his retirement takes a great deal from the Bench which cannot at present be supplied.

I am happy to think that he has still the prospect of some enjoyment. His speech, if affected at all, is so to a very slight extent, and his mind is completely untouched. With his beautiful Corehouse and his library, incapacity to walk may be endured, and so long as the intellect remains unshattered, habit may give comfort even to palsy.

6th April 1839. As Government has staked its existence on the result of a motion about its management of Ireland, a public meeting was called here the other day by the Whigs, for the purpose of supporting Ministers. It had a result, however, unexampled in this place. The newly-risen "Chartists," being universal suffrage and physical force Radicals, though excluded by the advertisement, not being friendly to Government, attended in organised force and broke

up the meeting by violence. They were a minority in number, but made up for this in tumultuousness and brutality. They would not allow any business to be done—not even a chairman to be elected, so long as the Whigs remained; but this party no sooner withdrew than they constituted themselves the meeting, and passed Resolutions worthy of those who approved of them. I did not think that so blackguard a scene could occur in Edinburgh. It shows a rise in the Radical party here, and may not merely affect our next election but may prevent respectable public meetings in Edinburgh for a long time. The Conservatives are delighted, for they plausibly hold all such outrages to be the natural consequence of the elevation by the Whigs of the rabble, and as a just retribution by the scorpions who are only stinging the traitors who warmed them into life. And there is truth in this. No party can long be the established, and at last the triumphant, champions of popular liberty without eliciting the excesses of popular folly; and the present position of affairs just depends on the answer to this question—Are the Radicals, by opposing Ministers, to introduce a Tory Government, which they are in time to make odious and destroy, and thereby produce a confusion by which their cause may gain; or are both Tories and Whigs to concur, conjunctly or severally, in putting down this lower party, which truly has no object except a base Republic, founded on the

destruction of property and of all rights higher than their own? Any union of the Whigs and the Tories for this purpose suggests the idea of coalition—an odious word, agreeable to the passions of neither. Each blames the other for cultivating the common enemy whenever votes are scarce. I think both imputations just. To eschew a disgraceful vote seems too much virtue for human faction. How it is to end remains to be seen. All that is clear to me is—that we can have no strong Government at present, and that, until the Radical party, which can always turn the balance, and seldom hesitates to do so mischievously, shall be either quashed or in power, both Whigs and Tories must go on flickering and wavering for mere existence. The comfort for the day is that the Radicals are so odious they have not yet produced one man of character, or of intelligible views, or of inoffensive manners—I mean the real thorough-going Radicals; not those persons to whom this word is often applied merely because their Whiggery is intense, many of whom are able and worthy.

28th April 1839. Murray has been made the Judge in room of Corehouse, and Rutherfurd the Solicitor-General has succeeded Murray as Lord Advocate. I augur better things from Rutherfurd's appointment than from almost any Scotch promotion that has taken place in my time. I have known all our Lord

Advocates since 1793, and there has not been one of them nearly so well qualified, in so far as we can predict, for that situation. Indeed, except Jeffrey, not one of them is entitled to be put into competition with him. I startle at preferring any powers to those of Jeffrey, but he was far too old when he entered Parliament. Rutherfurd's manner is thought by some people to be too lofty. If he avoids this, and remains in place long enough to make himself be felt, I do not see how he can fail to raise the public character of his office, and to do great honour to himself by doing great honour to Scotland. He stands unquestionably at the very head of his profession, is well informed upon all moral and political subjects, skilful in the conduct of affairs, very industrious, ardent, and high in the general tone of his mind, of an enlightened taste, a powerful writer, and with eloquence which, like anything else not its own, may possibly fail in the House of Commons, but which could be addressed without producing strong effects to no other audience speaking the English language; and his personal character, including particularly his moral constitution, is not only unstained and stainless, but of the purest excellence.

6th May 1839. The House of Lords has affirmed the judgment of the Court of Session in the case of Auchterarder. There never was a greater cause adjudged in the House of Lords on reasons more utterly

unworthy of both. A case about a horse, or a £20 bill of exchange, would have got more thought. Brougham declared that his only difficulty lay in finding out what the difficulty was, which perhaps was a correct account of his own state and of that of his learned compeers. The ignorance and contemptuous slightness of the judgment did great mischief. It irritated and justified the people of Scotland in believing that their Church was sacrificed to English prejudices. The successful party laments that the mere affirmance is all it has gained.

We shall soon see what the Church means to do. There cannot be a doubt that they may easily evade the decision if they choose. I wish the people would enable them to let all such experiments alone, and would allow patronage to operate peacefully. It is an excellent damper; but this is one of the main reasons why the Scotch—a fanatical people, have always disliked it; and though we may regret their tastes, it is difficult to justify the forcing upon them a system to which they have an honest and hereditary aversion, on a matter as to which it is they who have the principal interest. The melancholy state of some churchmen's heads is indicated by two recent occurrences. About a month ago the Synod of Glasgow and Ayr carried a vote, with only two dissentients, for a petition to Parliament for the repeal of the Catholic Emancipation Bill; and within these few days the

Presbytery of Edinburgh objected to an offer by Mr. Gladstone to build and endow a church in his native town of Leith, because he wished to retain the patronage for himself and his family; declaring thereby that they would rather have the people kept ignorant than made religious through that abominable thing.

18th May 1839. The Rev. Archibald Alison died yesterday, in his eighty-second year. He had married Dr. Gregory's sister, and was the friend and associate of Playfair and Stewart and all our literary men, and, so far as I at present recollect, he is the last of that generation. I remember hearing Dugald Stewart say to a person he was walking up the Canongate with, one Sunday after hearing Alison preach—"No man ever *wrote* a better sermon, no man ever *spoke* a better sermon, no man ever *thought* a better sermon." It was this that first made me go to hear him. He was a most excellent man in every respect, whose only defect was the odd one of too much politeness.

29th May 1839. The troubles of the poor Church of Scotland were not diminished by the decision of the Court of Session, on the 22d instant, in what is called the Lethendy case. On the application of a presentee, who stated that he had been illegally rejected on the Veto Act from the parish of Lethendy, an interdict had been granted prohibiting the Presbytery from

inducting another person to whom a new presentation had been issued by the patron. The Church held this civil interference with what they maintained to be their spiritual duty illegal, and broke the interdict by inducting. On this there was a complaint, and the Court on the 22d found the complaint proved, and ordered the eight reverend delinquents to appear at the bar in three weeks. Glenlee was absent. Jeffrey and Moncreiff held the interference of the Court incompetent, but the other ten Judges were of an opposite opinion. Fullerton and I were in the minority in Auchterarder; but being now compelled to profess a belief that we were wrong, and holding that there was sufficient civil matter involved to warrant the Court in having protected the interests of the rejected presentee by the precautionary measure of preventing the induction of his rival, we were with the majority here.*

This judgment is the second deep cut into the nervous system of the Church; for if we can order a presbytery not to induct, I don't see how we have not power to bid it induct, and after this where is the peculiar power of the Church; especially if this authority of ours be connected with Brougham's opinion in the Lords, the doctrine of which (shallow and presumptuous though his speech be) was, when I stated

* I have since been obliged judicially to doubt the soundness of this opinion.—[*Cuningham* v. *Presbytery of Irvine*, 5 D. B. M., p. 427, 20th January 1843.]

it in my Lethendy opinion, adopted by all the Judges who had formed the majority in Auchterarder. This doctrine is—that except in deciding on the presentee's orthodoxy, morals, and learning, and in performing the strictly spiritual act of ordaining, the Church has *no power whatever;* and in particular that intrusion and unfitness for the particular parish were things with which the Church had nothing to do. The result is that the effort to mitigate patronage has ended in making it more stern than ever.

It was under the pressure and irritation of these difficulties that the General Assembly of this year had to decide what it was to do in reference to Auchterarder; for, except by their all knowing of it personally, Lethendy did not come before them. Three motions were made, all too long to be quoted. Dr. Cook, the leader of the Moderate party, moved in substance that the Veto Act should be abandoned, and that they should proceed as before, except that he was willing to declare that unfitness for the place was an objection which the Church Courts might competently consider, to the effect of rejecting upon it or not as they chose. Chalmers moved in substance that no opposition should be offered to the presentee of Auchterarder getting the patrimonial interests, but that neither he nor any one else should ever be forced upon a parish contrary to the will of the people. Dr. Muir, the late Moderator, made a middle motion, which it would require a cun-

ning head to distinguish from Cook's. The radical difference between the two parties was this: both motions recognised the principle of non-intrusion and of fitness, but Cook wished the effect of these objections to be left to the Church, whereas Chalmers made rejection by the Church on the ground of these imperative. Chalmers' motion was carried against Muir's, and Muir being thus put off the field, a new heat was run between Chalmers and Cook, when the former beat by about 204 to 155.

How they are to extricate this in the new vacancies in opposition to the doctrine of the civil courts they themselves don't know. The only things certain are, that we shall have another year of collision, and that Voluntaries may rejoice. The resolution of the Assembly has given great offence to the Moderates. The Earl of Dalhousie, after agreeing to second Chalmers' motion, the very words of which he had studied, disliked the doctor's oration so much that he not only voted against him but next day denounced the Assembly as having gone into rebellion against the State, and then, after inflicting upon them the terrible sentence of saying he would never sit among them again, took up his hat and walked off. This great example, the Moderates think, must awe the majority into reason. I understand that a few others have left the Church and joined the Episcopalians. Yet I cannot blame them for trying to assert what until

lately no man doubted was their right, and what seems essential to their existence as a Church.

But they will fail. They have appointed a committee to confer with Government with a view to legalise the Veto Act. If it be a Whig Government, the answer must be—"You boast of your hatred to us, and wish us to renew the persecution of Dissenters; we won't run our heads against an English and Irish post to please you." If it be a Tory one, the answer will be—"You are against patronage and the law; get you gone." If it be a Radical—"We hate the Church; your ruin rejoices us." Thus left to itself, and patronage confirmed, the evangelical party will be always appealing to the people and railing at the law. The opposite party will be sneering at the people and hardening the law, and the result will be that in the next generation the Dissenters will be the majority. My anticipation was that the Veto would have worked well. It is a remarkable fact that the year from May 1838 to 1839 did not produce a single patronage dispute that was not adjusted in the country. Lord Moncreiff was not a member. He could not desert his party; nor could he lead it. He had too much moderation and sense; so he withdrew, never, I hope, to return. They never had such a lay member.

6th June 1839. On the 4th Macaulay was elected our member in place of Abercromby, who has sub-

mitted with little fortune to be henceforth called Baron Dunfermline. Macaulay made several good speeches —his first one, in the Assembly Rooms, a very great one. The Conservative party gave no opposition. The Radicals, or rather that section of them called the Chartists, pretended to set up Mr. Sharman Crawford, an Irishman, though he had refused to stand; but they did not demand a poll. One of the good things that Macaulay did was that, wherever he encountered these lunatics, instead of despising or abusing them he answered them, and of course greatly shook the faith of their adherents. He did so particularly and triumphantly from the hustings at the election. He is a very remarkable man. I know him chiefly through the "Edinburgh Review," Macvey Napier, and Jeffrey, the last of whom has long been his greatest Scotch friend. He is strong in all valuable points; a great talker, a deep original thinker, a striking writer, an eloquent speaker, a good scholar, with vast knowledge which his industry is regularly increasing, the utmost purity and steadfastness of principle and of public objects, and with a taste for fame and usefulness so just and lofty that, though qualified to captivate and enlighten any audience or to advise any Cabinet, he holds this perishable power as insignificant when compared with the permanent glory of literature or philosophy. He is not intellectual in his outward appearance. In manner his defect is that he is heavy

and lumbering, though not big, and has an air of vulgarity. His conversation, of which however I have yet heard very little, is good, but, with the usual defects of professed talkers, it is a great deal too abundant and is not easy. He utters with great rapidity, and with a panting anxiety. Though the matter of his conversation, therefore, is always admirable, the style is not pleasing. Sydney Smith, an enormous talker, complains of Macaulay never letting him get in a word. Smith once said to him, "Now, Macaulay, when I am gone you'll be sorry that you never heard me speak." On another occasion Smith said that he had found Macaulay in bed from illness, and that he was therefore more agreeable than he had ever seen him. "There were some glorious flashes of silence."

17th June 1839. The eight reverend delinquents of Lethendy appeared at the bar of the Court of Session on the 12th. The Presbytery read one paper, and the presentee another, in which they professed due respect to the civil court, and said they had acted by the orders of their superiors. We knew the very words they were to use, for they had been published, as recommended by the General Assembly; but we looked grim, and said nothing, except that we should take two days to think. On the 13th we discussed the punishment in the robing-room. Gillies, Meadowbank, and Mackenzie were clear for imprison-

ment; and Medwyn had no objection to it. Moncreiff, Jeffrey, Fullerton, Cuninghame, and myself, were for finding them liable in expenses; but for also finding that, in consequence of the difficulty and novelty of their situation, it was unnecessary to proceed further. The President, the Justice-Clerk, and Murray were rather for the jail; but at last the Justice-Clerk proposed a mere censure and costs. We, who were for nothing, went into this next to nothing, and so our Jupiter was ordained to hurl bolts at their heads next day. This he did, and after conveying the censure of the Court in almost technical terms, he went on with about half-an-hour's admonition and explanation of his own. There were some foolish things in this discourse, but upon the whole it was creditable to its author and to the Court. There was no anecdote and no abuse. His bodily feebleness made him gentle; his good nature kind; and his views were reasonable. It was a calm, mild, gentlemanly expostulation.

Our moderation, though it surprised most people at first, is already felt to have been wise. It is received as the strongest proof of our conviction of the ministers' helplessness, and it disappoints some of them who are ambitious of martyrdom. It was a strange exhibition.

24th June 1839. Its first fruit has been a public

meeting on the 19th in the Assembly Rooms, with the Lord Provost in the chair, to concert measures for obtaining a law to prevent the intrusion of ministers. The result was, that after getting the promise of a candid audience from Lord Melbourne, a deputation proceeds to London in a few days. They will certainly fail, because Government won't open an English sluice, and patrons won't abandon their property. The best chance they have arises from the desire of each of the political parties to secure the clerical influence at elections; and, incredible as it may appear, there are really some symptoms of this working to a certain extent. Some of the clergy, who till now have been flaming Conservative orators, finding the Tories stern for patronage, have already announced that henceforth they take to the Whigs. It is said that one or two considerable patrons have almost consented to the proposed law; and it is probable that any Government, whether Whig or Tory, will act as far as it can on the same principle. The clergy, true to priestcraft, see this, and are now boasting that "*There is a competition for us.*" They see the imputations implied in the fact, but they are too Church to feel it.

And the Dissenters are fully as bad. Patronage was their original grievance, and the absence of this abominable thing from their sect is still their proud distinction, yet they are the great traducers of every effort to remove it from the Church. Government

has been not indisposed to try to introduce a system of national education which shall instruct the whole people free of creeds, but with power to each sect to teach its own; yet this is opposed by many classes of Dissenters; and lastly, though the Scotch ones never said a word against our old Scotch job, of a monopoly of printing the Bible being held by a private party, now that Government has let this monopoly expire, and only proposes to preserve the purity of the text by the superintendence of a Board, they are furious at this, because all the members of this Board belong to the Church. The Lord Advocate (Rutherfurd) explains this well in a letter I had from him to-day—"Certainly, if you had opened the trade without the most satisfactory security for accuracy in the text, though there is no real security in the present system (I mean under the Queen's Printer), you would have had the Bible turned into a weapon of offence, which would have proved fatal to any Government; but then, because the State in the exercise of a Crown prerogative, wishing to select men of safe religious opinions, resorts to the Established Church, the Dissenters are in a flame, and cry out, insult you, and abuse you for running down your best supporters, and sacrificing the interests of the Dissenters in every point to those of the Kirk. We are assailed for giving cheap and good Bibles; and when it is proposed to extend the benefit of education, there is a cry,

responded to in shouts by half the House of Commons, that you are undermining and ruining the Church, and raising the Dissenters and Catholics upon her ruins. I have had some correspondence with the Dissenters, and see some of them here. They admit the object is good and cheap Bibles; they admit that the advantages of free competition will be gained by the scheme proposed; they admit that, so far as regards real interest, the Dissenters are just as well off as the Church, and that the Church is in no better situation than any other individual who proposes to print for speculation. They admit too that to satisfy the public—to satisfy the ten thousand timid and scrupulous but conscientious persons, you cannot throw the trade quite open, and let the Scriptures be printed as freely as you like. They admit that Socinians, Unitarians, Catholics, and I know not how many others, could not be of the Board; and yet when the State, having an Established Church which has the same Bible with the Dissenters, takes from the Church the religious security it requires in these matters, they are so enraged because Government pays her this acknowledgment *that they would rather want the boon.* Harper of Leith I have seen, and D. M'Laren I have written to. They are both reduced to put their opposition on what they call the point of *honour,* for they admit the object is accomplished. If the Board had been left without qualification, and

filled up with Establishment men, the clamour would have been equally great and better founded as against the Administration; and if Dissenters had been promoted, we should have been assailed with indifference to the word of God from Land's-End to Orkney. One is sick of it. I wish I were back again at my old work among the thirteen."

In another passage of the same letter he gives this account of his own situation personally—"For myself, I never was so much malcontent with myself and my circumstances as at present. In place, but without power; worried and constantly occupied, but doing and accomplishing nothing; unable to move without some sort of antagonists who refuse to forward any measure of the most obvious improvement, that you may have no credit; and engaged for ever in hopeless interminable wrangling. Then, one is really little better with one's friends than one's enemies; for the first are just as unreasonable in their jealousies and expectations as the latter in their hatred." The feelings of a man new to office, perhaps; but feelings that will adhere to every Lord Advocate while this officer is kept in his present condition, responsible for everything and with power to do nothing.

17th July 1839. On the 8th instant there was a public meeting here to oppose the Government scheme of education, because it contains a grant of £10,000

which *may* be applied by the Privy Council for the education of Dissenters. The reasoning of this objection is that secular and religious education ought to be blended—that is, that the multiplication table ought not to be taught unless along with the doctrine of grace, that no religious instruction can be deemed safe except what proceeds from the Church, and therefore that the Church ought to have the sole charge of the education of the whole people. This monstrous principle implies that neither the State nor the law ought to make any provision for the education of Dissenters. It isn't wonderful that a majority of the peers should support this tyrannous and lunatic dogma, because they are steeped in Church; but its being countenanced in Scotland, where the children of Churchmen and Dissenters have hitherto been educated in harmony together in all schools and colleges, does show how far bigotry can go.

15th October 1839. In August last the display called the *Tournament* took place at Eglinton Castle. It was an exhibition of the dresses, armour, tilting, and pageantry of chivalry, and had been above a year in preparation, and excited great interest all over the kingdom. Some people despise and abuse it, and rejoice that it has cost Lord Eglinton, who was the author of the project, a great sum of money. Others laud it as an original and noble idea, far beyond hunt-

ing, or shooting, or racing, and hold that his Lordship deserves immortality, in addition to a grand testimonial, already up to nearly £2000, which is soon to be presented to him. I wasn't there, but there is no division of opinion among those who were that, whether the attempt was foolish or not, its execution was most beautiful and magnificent. Royalty has produced no better show in our time, unless perhaps it were at the coronation of George IV. William Allan the painter, a great traveller, who has seen most of the spectacles to be seen in Europe or on the European edges of Asia, and who is eminently skilled in costume and armour, tells me that the procession of the knights surpassed all he had ever beheld, especially in the brilliancy of colour. There was a splendid gathering of gentles, native and foreign, and a vast collection of commonalty. The gilt and gayness of the first day was woefully besmirched by a remorseless torrent of rain, which drenched not only the knights and the people but the high-born dames, covered though they were by brilliant chintz-lined galleries; and even quashed the dinner and the ball by flooding the temporary palace where the champagne was to have flown and the satined feet to have twinkled. This disaster was owing to a London upholsterer, who forgot to conjecture that there might probably be rain in Ayrshire in the end of August, and in a very wet season, and therefore in constructing his wooden roof

made the boards join edge to edge instead of overlapping, and thus made each joint along its whole length a shower-bath. I should not wonder if we had more of these feudal revivals; and I do think that they are fully as interesting and respectable as most other costly amusements.

In September I was on the South Circuit—a delightful time; though rain was rather prevalent. Nevertheless, thick shoes and a thick skin make water a smaller evil than it is often thought. And there are always gleams, the more prized from the contrast.

I never see Jedburgh without pleasure. Its position, its history, and its Abbey impress it with that peculiar feeling of softness and of sacredness which pervades all our border scenery, but especially those parts of it which are dignified by fragments of architectural antiquity. It was a long time since I had been there professionally, and this was my first visit to it as a Judge. I was pleased to see that the Crailing guard had escaped being anyhow modernised. A delightful institution—the dotage of the feudal system.

The shades of Eskgrove and of Brougham, of Craig and of Scott, rose before me. Brougham's chief professional occupation after he joined the Faculty of Advocates (in 1800) consisted in torturing Eskgrove, and with triumphant success. The anecdotes that

signalised their circuit peregrinations are countless. It is difficult to say whether spectators laughed most at the ludicrous and contemptible absurdities of the mean and testy Judge, or at the able and audacious extravagances of the counsel. Paired, they were perfect. At Jedburgh on one occasion Eskgrove stopped the business that he might dine, according to the then prevailing custom; and after teasing his Lordship's very soul out at table, Brougham disappeared the instant Eskgrove drank good afternoon, in order to process back to Court. It was soon seen why he had taken himself off; for the procession had not advanced half-way, when a military-looking gentleman (being the learned counsel), with a respectful servant and a cockade in his hat, dashed from the slope above the town, through the middle of it, scattering the warriors of Crailing, advocates, trumpeters, and clerk; and then, before the splashed and dinner-shaken walkers could recover from their agitation, or get well-placed in Court, the person who a minute before had performed the part of a captain in a hurry was on the floor, gowned and wigged, objecting to everything. The poor Justice was glad to let him alone. His step had not been the steadier, nor his temper the calmer, nor his fright the less, from his refreshment, but glad to find his bones all safe, he evaporated in his usual fierce but insignificant wrath at "that most malapert young man, Maister Broom or Broug-ham."

We travelled by Selkirk and St. Mary's Loch to Beattock. At Selkirk I saw for the first time the statue of Sir Walter Scott—a sad piece of sculpture, not very honourable to the gentry of Selkirkshire. There are two things about it good, however,—the inscription, which quotes very happily his own lines on his favourite Yarrow and Ettrick, and the pride which the people in the town feel in the man and in his effigy. "Have ye seen oor Sir Walter?" asked a poor shopkeeper with a strong appropriating emphasis on the pronoun. The whole thirty-seven miles from Selkirk to Beattock is beautiful; the latter part from St. Mary's Loch was new to me. The woodland part of the scenery by Bowhill, Newark, and Hangingshaw is what chiefly pleases the majority of spectators. But though very beautiful, yet composed as it is of wood, rivers, and hill, not arranged with any singularity, it is not more beautiful than thousands of Scotch scenes. By far the best part of it owes its charm to the old tower of Newark.

It is when the trees begin to fail, when the hard wood keeps back and lets the fir go on, and when, after ascending the Yarrow a little further, the very fir gives up to the grass, and we are left to the solitude of the hills, that the real peculiarity and interest of the range begins. It is as purely pastoral a district as any in Scotland—its very green grass unbroken by a single rock, few houses, and no village but little

secluded Yarrow, the clear river, the silent turf-edged loch, the old stories and ballads, and the genius of Scott lingering in every valley, and embellishing every feature and every tale. The bareness and greenness and sameness of the valley might seem to preclude its being interesting, but these are the very things that aid the old associations, and impart that feeling of pleasing melancholy which belongs to the region. There is inspiration in the words Newark, Yarrow, and Dryhope. The first dive down from the Loch of the Lowes, till Moffat Water begins to run with some profession of horizontality, is glorious. It is as fine a ravine of mere turf as we have.

The hostess at St. Mary's Loch has two sons and some other kinsfolk who emigrated to Canada some years ago, where she says they are all prospering in a Selkirkshire and Dumfriesshire of their own naming. In describing their felicity she mentioned a circumstance which, to be sure, must strike a St. Mary's Loch woman—"An' what d'ye think! in Yarrow kirk ye sometimes canna hear a word the minister says for the folk coughing; but ye may gang to their kirk the haill year round without hearing either a clocher or a hoast!"

12th December 1839. Another great battle of the Church was fought yesterday,—one that may probably bring matters to a crisis.

The course of the war hitherto has been this—The Veto Act was passed by the Assembly in 1834, chiefly by the influence of those who wished to save as much of patronage as they could, but who have ever since been calumniated as its secret enemies. In March 1838 the Court of Session decided that this Act was against law, which in May 1839, prior to the meeting of the Assembly, the House of Lords affirmed. Immediately thereafter the Assembly declared *its independence*, and resolved to maintain it—meaning its independence of the civil law in matters spiritual, and in the Church's sense of what was, or was not, spiritual. The Court had ordered the Presbytery of Auchterarder to take the vetoed presentee on trial; but this Assembly (of 1839) ordered them to delay doing so till the Assembly of 1840 should meet; and hitherto they have obeyed the Church. This was the *first* collision between the Church and the Law; but as the Presbytery has only *delayed*, the collision was not very direct.

Some time before this the Court had interdicted the Presbytery of Dunkeld from *inducting* a presentee whose claim was thought by the Judges to depend on the question whether the right of a prior presentee had been defeated by his rejection under the Veto Act. The Presbytery, holding induction to be spiritual, disobeyed the interdict, and in May last was publicly and judicially rebuked. This was collision the second.

In the parish of Marnoch, a presentee had been

vetoed. He took the same course with the presentee to Auchterarder, by raising a declaratory action in the Court of Session, where he got the same decree (from the Lord Ordinary), ordaining the Presbytery of Strathbogie to take him on trial, and also an interdict against their proceeding with the induction of another person to whom a new presentation had been granted. This Marnoch case also was before the Assembly in May 1839, when the Presbytery was forbidden to proceed any way without the orders of the Commission to which the case was remitted. The Commission renewed the injunction against the Presbytery's proceeding to induct the rejected men. But this Presbytery happens to contain seven ministers who adhere to the old doctrines of Moderation; and these being a majority, pronounced a judgment on the 5th instant, by which they made the Presbytery obey the civil authority, and disobey the ecclesiastical. This was done distinctly and directly. Their resolution quotes the two opposite orders—one by the Law commanding them, and the other by the Church forbidding them, to take steps towards the induction of the vetoed presentee, and then openly and deliberately prefers the former; and this on the express ground that it is the duty of the Church, even in this matter, to obey the law. The minority having let the Commission, which met about a month ago, know what had been determined on, the majority of the Presby-

tery was directed to appear (but not personally) at the next meeting of the Commission. This meeting took place yesterday, when the whole seven were *suspended*. This is collision the third.

But it brings matters to a point. We shall see what will happen next round.

The Court of Session will go any length that the law, as interpreted at present by a majority of the Judges, will permit, including interdict, fine, imprisonment, damages, and the separation of the stipend from the office, to enforce what they call the law's authority. And so will the Church to enforce the church's. If Parliament does not settle it I cannot prophecy which party is to succeed; but anyhow the decline of the Church is certain. If it prevail, it will alarm some adherents by its apparent ambition. If the law shall triumph, and unchecked patronage be restored, then we shall have a considerable immediate addition to the Secession, and a constant absorption of people into a new Voluntary Establishment, till the Church be a minority of the population, after which it is done. The best remedy would be for Parliament to legalise *the* Veto, or *a* Veto, and thus reconcile the people by softening patronage without destroying it. This point being adjusted, the only *cause* of collision between the civil and ecclesiastical authorities would be removed. Meanwhile it is a melancholy game.

John Hope, Dean of Faculty, put forth a pamphlet about two months ago, in the form of a letter, to the Lord Chancellor, with the view of giving a *candid* explanation of all these matters, and of demonstrating that they all resolve into the Church's lust of power, and that the sole, the obvious, the complete, and the safe remedy for all these evils is to put down the people and the party at present in power in the Church, to put up rigid patronage, and to restore the just and tranquil age of Principal Robertson. This production, addressed as it is to all the prejudices of Toryism, has made a great noise, but far more from the numerous and fierce answers it has elicited than from what itself contains. He himself thinks it is a complete inspiration of Church policy. But in truth it is perhaps more inaccurate in its statements, worse reasoned, more absurd in its principles and views, and above all far worse written, than any other human composition. His chief respondents hitherto have been Dr. Chalmers and Mr. Alexander Dunlop, advocate—the last the great legal general of the Church in this war.

The Church no doubt must be subjected to the law; and to the law as delivered by the Courts. This is clear, and never so clear as now; especially in relation to adjustments which the State must effect between Establishments and rival sects. But no good is ever done in such cases by stretching the law, or by making its declarations offensive; in both of which

respects there have been grievous errors. The Church of Scotland was erected by Churchmen; and in the flush of their triumph over a civil tyranny which they had just laid prostrate. The notion of its subjection to civil authority was the idea the most remote from the imaginations of its founders. When a collision between these two powers therefore occurred, as it has done in a later age, it is not wonderful that so much law should be found on the side of the Church. In such great conflicts of principle it cannot be expected that either party will at once submit quietly to the legal determination of the Courts. Though the expediency, or rather the absolute necessity, of subjecting the Church to the Law be the sound opinion, no calm man can withhold all his sympathies from Churchmen who are maintaining nothing but what it has been the glory of their fathers to have maintained, and whose misfortune it is, that what their fathers maintained is unsuited to the present age. Still less can a calm man withhold his sympathies from the people in their modern resistance to that patronage which, wisely or not, they or their fathers have been struggling against for about two centuries.

18th December 1839. It is thickening. The presentee to Daviot applied for an interdict against the registered heads of families, *prohibiting them from objecting to him without cause* at the meeting for

moderating in his call under the Veto Act, and yesterday the Second Division of the Court granted the interdict. The Judges present were the Justice-Clerk (Boyle), Medwyn, and Meadowbank—Glenlee, one of the Auchterarder minority, being absent. It was all *ex parte*, and so I presume will all that the civil court may do now be; at least, the Church will probably never make appearance again.

19th December 1839. The presentee thought he was certain of getting in, and so did the Court; for the tongues of his opponents being tied while those of his supporters were left loose, what was to keep him out? The day for moderating had been fixed, but the Presbytery has been advised by Dunlop to *stop all proceedings*, which it will do. Something like castling the king.

26th December 1839. Thicker still. The seven suspended ministers applied the other day for an interdict prohibiting the sentence of the Commission of the Assembly from being intimated or anything done upon it; and the First Division of the Court has granted the interdict to this extent—namely, that it should not be intimated or anything done upon it *by using the church, the manse, the glebe, the churchyard, or the bell.* By some blunder, the words of the interlocutor forbid intimation *absolutely;* but unquestion-

ably this is not what the Court meant. They meant merely to operate civilly on civil things. Accordingly, ministers sent by the Commission went last Sunday to each of the seven parishes to preach and announce the suspension in the church, but finding messengers at the gates with the interdict, they performed the duty on the outsides of the kirks, the suspendees preaching all the while in the inside. This is what each party calls supporting the Establishment.

11th January 1840. Lord Glenlee has resigned. He ought to have done so two years ago. Few men, even in the best condition of humanity, are fit for the Bench at 84. He has sat upon it since 1795, being I suppose the oldest Judge in Europe. He was the last man who will ever walk the street in his judicial wig. This was perhaps common enough anciently; indeed, I suspect that our Judges were at first obliged by royal order never to appear except both wigged and robed. However, nobody wore the wig on the street at last except Glenlee. Till he got so feeble latterly as to require a sedan chair, his practice was to walk to Court in his wig and long cravat, his silk stockings and silver buckles, and his cocked hat in his hand—a gentlemanly figure. Presidents Campbell and Blair proceeded in the same way, and they all lived in the southern quarter of the city—Glenlee in Brown Square, Campbell in Park Place, and Blair in George Square.

The people were so accustomed to the sight that they scarcely noticed it.

9th March 1840. The ecclesiastical war goes on. About six weeks ago the Lord President (Hope), Lord Gillies, and Lord Mackenzie, the majority of the First Division of the Court, contrary to the opinion of Lord Fullerton, not only declared the Strathbogie interdict perpetual, but extended it so as to prohibit *all* ministers of the Established Church, *except the seven suspended ones*, from doing any duty either in the Churches *or anywhere else within these seven parishes.* They have prohibited any preaching of the Gospel in these parishes except by seven persons whom the Church has suspended! I am at present of opinion that every judgment that has been pronounced in any of these Church cases, except perhaps the one in Lethendy, has been wrong; and certainly this one does not tend to reconcile me to the legal views of the three Judges in whose hands chiefly these matters have since been. No calm lawyer can approve of this proceeding. It implies that suspension of a clergyman from his clerical functions is not the exclusive privilege of the Church, but that, even in this matter, the Church is liable to be controlled by the civil court—that the illegality of the spiritual grounds on which the Church suspends is a legal reason for the civil court defeating its sentence, and that it is competent for the civil

court to enforce its own view by not only encouraging suspended ministers to set their ecclesiastical superiors at defiance by preaching though suspended, but by excluding every other Established clergyman from preaching within a large district, though the right of doing so is left open to everybody else, including Catholics and Dissenters. I grieve to add that upon this, as upon other occasions, the *manner* in which the law was delivered by some of the Judges was as offensive to the Church as the law itself. The President accused the clergy of fraudulent manœuvring, and Gillies asserted that they had violated their oath of allegiance and committed perjury! It is lamentable that a similar intemperance of feeling and of language should more than once have diminished the weight of the Bench on these great questions.

From the moment that this interdict was imposed it has been ostentatiously violated. Ministers, and generally the most eminent ones, defying martyrdom, have been preaching within the forbidden ground almost constantly. Hitherto no attempt has been made to prevent or punish this, because it is seen that fining or imprisoning the clergy would do no good—another proof of the imprudence of granting an interdict which cannot be enforced.

The excitement has at last driven the Government, after endless deputations, petitions, public meetings, and pamphlets, to announce that it will *probably* be

ready, in a few weeks, with what it hopes may be a satisfactory measure. This will probably consist of some modification of the Veto, or rather of a law permitting, but not like the Veto compelling, Presbyteries to reject on the fact of unacceptableness. But it is a very difficult problem for any Government, particularly since ordinary parties are so strangely confused. Those men who never drew together before are now pulling vigorously at the same rope for exactly opposite objects. Those who really wish to uphold the Establishment are aided by those who are anxious to destroy it, and hence the judgments of the majority of the Court of Session are applauded by nobody so heartily as by the stern Conservative and the fierce Seceder. The ardent Whig, who in the Assembly never gave a single vote for moderation or patronage, concurs with the measures of the intense Tory for the triumph of both; and the Tory, to whom all the other objects of Whiggism are odious, sits in the same committee with, and tries to forward the ecclesiastical principles of, his otherwise irreconcilable enemy.

There are also some, among whom I place Jeffrey and myself, whom it is rather odd to find on the Church's side, because these persons are no devotees of ecclesiastical establishments, and are thoroughly aware of the offensive errors of our present Church, and for their own tastes would prefer patronage to popular election; but then, though there would probably be

no Established Church in our Utopia, it seems to us to be little short of lunacy to try to pull down the one we have got in Scotland; and though patronage may not be so unpalatable to our taste as any substitute for it, yet perhaps their whole history shows that it is nauseous to the taste of Scotchmen, and we can see no right that we have to compel the people to receive the thing that of all others they and their fathers have particularly abhorred. The present wildness of the dominant Church we dislike; but it has been for the season a necessary consequence of its rise over its lukewarm opponents. Its intolerance we resist; but this vice is as strong in the party which the Wild have subdued, and neither are worse in either of these defects than the Dissenters. Above all, we are immovably certain that the Church has the law on its side, and that the opposition to it by lay members of the Establishment proceeds chiefly from Toryism anxious to enable patrons to keep down the people.

How striking the resemblance, in all its material features, of this collision between the Church and the Court in Scotland, to the co-existing collision between the House of Commons and the Queen's Bench in England. In the one country we have the Commons, and in the other the Church, first submitting to the jurisdiction of the civil tribunal, and then, when

decided against there, refusing to obey the judgment or even to plead to that tribunal again; in both the same confident recurrence to what each holds to be the constitutional principles and necessities of its establishment, and the same consequent claim of independence; the same horror by some at the defied majesty of the law, met by the same contemptuous answer by others about judicial error and usurpation, and about there being things in the State greater than even the Courts; the same mutual appeal to the Legislature; both questions equally perplexed by the same confusion of parties.

CHAPTER VIII.

1840-1841.

19TH MAY 1840. A discussion of the deepest importance to Scotland, and the rise of which shows how easily old rights may now be shaken, has lately begun, and will at last probably make a considerable change on our economy of the Poor. The question is, whether we shall continue to adhere to our ancient and often-praised poor system, or shall at once abandon it for the poor-rates, workhouses, overseers, relief as a matter of right to the unemployed and able-bodied, and all the other peculiarities that have hitherto been generally condemned in England. An odd question apparently for Scotland to tolerate, but so it is.

Dr. Alison, one of our medical professors, published an admirable pamphlet last winter, maintaining the utter and necessary fallacy of the Scotch scheme, and recommending the English one. This work made a powerful impression both on the head and the heart; well written, all rested on what its author maintains to be facts, singularly candid towards all he

opposes, modest, and deeply fraught with unostentatious benevolence. These claims to consideration are all enhanced by his acquaintance with the poor, derived from a whole life of gratuitous professional devotion to their relief in sickness. This unexpected exposure of the unparalleled (as he says) amount of wretchedness of Scotch pauperism produced a meeting in the beginning of April of a number of our principal people in the Council Chamber, where Alison was thanked, the principles of his book by implication adopted, and a society formed for the purpose of collecting information, and of inducing Government to undertake a full inquiry and revision of our system. This indication of a leaning towards poor-rates alarmed other people, but chiefly the lairds, who in April also met in Edinburgh, and (equally peremptorily) resolved that our system was perfect.

While things are in this situation, David Monypenny (late Lord Pitmilly), who had formerly made his retreat from public life respectable and useful by his donation to this great field of charity, has put forth another pamphlet as an answer to the doctor, and the doctor has advertised a reply to him. So at present it hangs fire.

Were it not for two new elements, I should think Monypenny clearly right. These are—first, the increase of Dissenters, who contribute nothing at the Church doors; and, secondly, the whole populations that are

now thrown idle at once by periodical stagnations of trade. But notwithstanding this, I adhere as yet to my old faith in the necessary and progressive tendency of compulsory provision to increase the appetite of pauperism by what it feeds on. Still, however, poor-rates are convenient in the first instance, and have been steadily advancing for many years, and my belief is that they will at last, and soon, cover the whole land.

4th June 1840. The Church is nearly where it was. Some time ago Lord Aberdeen introduced a Bill into the House of Lords, which was to be the balm of Gilead for all our ecclesiastical sores. Those who knew him, a respectable but highly Conservative gentleman, and were aware of the influence of the Dean of Faculty over him, expected no good from this measure; and accordingly, when it appeared, this tendency was made clear enough by the rapture with which it was received by patrons and all enemies of everything popular in the Church. It had the merit of brevity, for its substance was understood to come to this, that the people, or any one of them, might state any objection whatever to a presentee, that the Church should judge of it, and might refuse to induct if satisfied with the objection, though it proceeded from only a single individual; but that, if satisfied that the objection arose from "causeless preju-

dice," then, though it should be insisted upon by the whole parish, the Presbytery should be *obliged* to disregard it. If the Bill was intended to mislead, it was well drawn, for no two even of its friends agreed in what it meant on one vital point. But this point was at last fixed, both by his lordship's self-revised speech, and by his letters. From these it appeared that the true reading was that though all objections might be *stated*, no rejection could take place unless the Presbytery approved of them, and that unacceptableness was in itself, or unless founded on what the Presbytery thought not a prejudice, no objection; that the Presbytery should always record which objection they sustained or repelled, and that the right claimed by the civil tribunals, as in the Auchterarder case, to review the opinion of the Church on the validity of the reason, should be recognised. This was worse than a mockery, for it did not merely preserve, but it legalised, all the grievances complained of, and would have left Principal Robertson or George Hill better means than ever of repeating all that they did. It quashed the protest against the encroachments of unchecked patronage which the old minority of the Church had been making for above 100 years.

If he had abolished the principle of the Veto by making the dissent of the people not imperative for rejection, but had allowed (not compelled, but allowed) the Church to reject on the ground of aversion, which

of course they never would have done but in extreme cases, where the repugnance was irreconcilable, and had consequently excluded the civil control, this I believe would have been received by all parties. A great majority of those who are anxious for some direct and absolute right of popular rejection would have closed with this as sufficient; but no one who disliked the existing system of unbridled patronage could possibly take this foolish snare of a measure.

The General Assembly supported by a very large majority a motion by Dr. Chalmers for rejecting the Bill. They also resolved that, in suspending the seven ministers of Strathbogie, the Commission had not exceeded its power; and it was carried that these seven mutineers should be of new suspended by the General Assembly, but that if they came forward to the Presbytery in August, and declared penitence, and that they would obey their ecclesiastical superiors by refraining from taking the presentee on trial, they might be reponed, but that if they stood out they should be libelled for contumacy. On the 3d of June the Commission took up the case of Daviot. The presentee had smoothed matters by abandoning his interdict, but he was ordered, on ecclesiastical pains, to express his regret to the Presbytery for having appealed to the civil power. These vigorous proceedings express the opinion of the Church on the leading points at issue. I wish they had abolished the Veto, since it has

been declared illegal, and had resolved to act on the principle, which I believe they would have accepted if it had been in Aberdeen's Bill. They should have made a right Bill for themselves, but they only continued the order of the preceding year, that all Veto cases should be reported to next General Assembly.

15th July 1840. On the 11th instant the First Division of the Court interdicted the Commission of the Assembly, the Presbytery of Strathbogie, and all concerned, from executing the order by the last General Assembly. In substance this is a reversal by the civil court of a judgment of the Assembly touching the discipline of ministers—a supercession of the Commission and Presbytery in libelling a minister by the Assembly's order for what the Assembly holds to be an act of contumacy—a direct suspension of what has hitherto been supposed to be in the spiritual power of the Church. It is not a decision merely to the effect that what the Church is about to do shall have no *patrimonial consequences*, but that the acts shall not be done. The grounds of this are, that as the order of the Assembly says and is meant to compel the majority of the Presbytery to obey the supreme ecclesiastical court instead of obeying the Court of Session, that order is illegal, and (which is the questionable assumption) that every illegality on the part of the Church whereby civil interests may be even

incidentally affected is liable to be corrected by the civil authority. If, as is probable, this interdict be disregarded, and the seven suspended ministers be libelled, and this or any other breach of the interdict be punished, this forces on another crisis. I have not seen the very words of the interlocutor, but I understand that it actually interdicts the unsuspended ministers—that is the only ministers at present acknowledged by the Church, from acting *in any way* as a Presbytery, even in the matters in which the Assembly expressly directs them to act. It is unfortunate for the legal character of the Court that all these extremities have been resorted to in absence, and very unfortunate for the public that the indiscretion of the Church, if there be any, in appearing to resist the law, should have the apology of as great indiscretion on the Bench. I have been accustomed to think that the Church, acting within its clear jurisdiction, was no more liable to be controlled by the Court of Session because it erred in law than the Courts of Justiciary or Exchequer are. The *patrimonial consequences* of an illegal act by the Church is another matter; but can the act be entirely superseded or the anticipated act be prohibited?

15th August 1840. The interdict has been defied. The Commission resolved by an immense majority to libel.

Chalmers published a pamphlet a few days ago, entitled "What ought the Church and the People of Scotland to do now?" which is remarkable for two things. First, he recommends the Assembly to rescind the Veto Act, and to recur firmly, but without any new law or declaration, to the power of the Church to enforce the call, leaving the sufficiency of each call to be judged of according to circumstances. A sensible advice. Second, he renounces his allegiance to the Conservative party, and in strong terms. He says he is now to take to what he calls "the people." Who these are is not explained, but the truth is that he and the Church generally will enlist for the time under whatever party will do most for their ecclesiastical principles.

24th August 1840. The Scotch legislation of last session was distinguished by the passing of an Act which extinguishes relationship as an objection to witnesses, puts an end to the humiliating technical farce of examining every witness *in initialibus*, and allows all witnesses to be in Court during trials, unless when ordered out—three things, the first particularly, for which I have been writing, and arguing, and pleading for years. The objection to relationship, with its excrescent "option," was such an obvious and utter scandal to the law that no English lawyer in either House could be made to say a word in its

favour. Yet so ineradicable are bad habits that the old Scotch faction did all they could to perpetuate the mischief. The Dean of Faculty got the Faculty of Advocates to disgrace itself by a string of idiotical resolutions against the Bill, and he and Sir William Rae made Lord Haddington divide the Lords upon it, and be defeated by the votes of his own party. Rutherfurd, the Lord Advocate, who conducted the measure with his usual prudence, tells me that it wasn't easy to persuade English lawyers that our law stood as the Bill implied.

11th September 1840. I have just finished the West Circuit, and have had a delightful time travelling among the finest and most varied scenery of Scotland. Strathearn—meaning the strath of about twenty miles from Crieff to Lochearnhead, though by no means the grandest, is, I think, the most picturesquely beautiful district in Scotland. The rapid and steep descent upon Comrie from Ardoch, especially when lighted up by the glow of a summer evening, is very striking. We snuffed the Comrie peat, and hailed the singularly lucid water of Earn, and soon found lowly Dunira sleeping calmly, as usual, in its magnificent cradle of crags and woods. I exclude Drummond Castle, for it is on the flat; but what have we in this country more perfect in mixed cultivation and rocky wildness than Ochtertyre, Lawers, Dunira, and Strowan?—though

perhaps its preponderance of mere agriculture would justify the exclusion of the last from the society of such glorious places. And then how their interstices are filled up by the tufts of Clathick, Comrie House, Dalchonzie, and Aberuchill. The eye and the mind wander incessantly from the rich, low, gravelly, alluvial holms, bright with verdure and grain, though perpetually darkened with knolls of wood and rock, to the lofty sierras of black and gray crags—their bases all covered profusely with good wood, till the solid masses are broken and dissipated as they get higher, till at last they die away, as the height still increases, into streaks up the sheltered ravines, till vegetation ceases, save where one or two successful adventurers may be seen far beyond all companionship, defying the storm, braving it like the strong men of the world, and calling on their timorous associates to come up to them. I never tire of sitting on the summit of a Strathearn crag, and surveying the scene below—obviously once a lake, and still the best preparation for a new lake in the world.

And from Strathearn—from the rich placidity of Lochearn to the alpine grandeur of Dalmally, along the bases of Ben Voirlich and Ben More, and in the company of Ben Cruachan and Ben Lawers, what a drive we had in our calm, bright day—the summits played upon by the sun and the clouds all day. Amidst the milkiness of such an air, and the gorgeous-

ness of such lights, nothing is wanted to entitle Scotland to stand up whenever even Switzerland is named.

In crossing Loch Fyne from Minnard to Strachur, my whole party, ladies included, tried the line-fishing, but with no success; but it reminded me of the day —I think in 1808—when I tried Loch Fyne in the same way with Lord Hermand. He was the Judge on the Circuit at Inverary, with his wife and two nieces, one since married to me, and the other to Maitland; and I was the Advocate-Depute. Robert Bell, now Procurator of the Church, was at Inverary with Lord Cullen, the other Judge. It was a bright calm day, and we paddled about for many hours. I rowed. His Lordship brought up some great fishes; but not without many a drive, and many a loud direction, and not a total absence of abuse from the fisherman, who was all deference to my Lord so long as no fish was on the hook; but no sooner did he see that one was in danger of being lost by his Lordship's awkwardness, than his whole respect was forgotten, and he bawled and shook his fist, and scolded most energetically, to the learned Judge's vast entertainment.

The night before, the two Judges, who were of opposite politics, and no friends, had met (at supper) for the first time for several years. They were cold at first, but at last good cheer soldered them, and by two in the morning (John Richardson, Bell, and I alone

being present) they were embracing and vowing eternal friendship, toasting each other's wives, and giving us young ones imitations of the old lawyers. It was an extraordinary scene. But it was not unjudicial in those days. Cullen was in bed all next day, and never saw his Circuit Court; but the immortal head of Hermand was clear and cool in the morning by six; and after a short time of business and a long sail he returned to the charge at dinner with a picturesque and cordial exuberance of spirits which the concentrated kindness and gaiety of all Argyleshire could not have equalled.

I had so much to see in our extended tour this Circuit, that the only book I could get read was *The Pathfinder*. I was told it is Cooper's best novel. Is it not his worst? The occurrences which marked the period when the French, the English, and the original natives fought for the soil of North America, supplied some good materials for both true and fictitious narrative. But they were too few and too simple for much of it; and they are devoid of the variety and interest which history and society alone furnish. Accordingly Cooper, in these stories, is always copying himself. It is all one what the title of any of his Indian tales may be, for they all produce exactly the same impression through substantially the same scenes and characters. It is always the wily Indian with his

rifle that never misses; the brave, honourable, and obstinate English officer; the gentle and heroic woman, braving bullets, tomahawks, long marches, and the fiery sieges of the wooden fortress; the noble savage, with all the gallantry of chivalry, and all the magnanimity of Christianity; the trail through the forest; the canoe and the rapids; eyes glaring through bushes; red skins and pale skins; hostile tribes, with their skilful leaders and odd names. It does well once, but not often. Cooper is never original nor in his element except in a ship. His home is on the deep.

2d November 1840. I leave this (Bonaly) and get into the Court harness again to-morrow, and before going must do justice to that uncomfortable mass of bad changes called our climate. April was the most extraordinary and delightful month I ever saw in Scotland in spring; bright, calm, warm, and so perfectly steady that we got into an unchecked reliance that to-morrow was to be as bright as to-day. I have rarely seen a better June or a more June-like flush of vegetation than that April gave us, and this Eden of Scotch springs lasted the whole month from its very first to its very last day. Then came the usual result—a wet, cold, and broken summer, every leaf which the folly of April had brought out nipped by the frosts of May, and the character of our climate attested all over the country by every

beech and plane and larch being blighted, their shrivelled brownness made the more striking by the verdure of the ash, which has been repeating the often-told truth that no tree which trusts our spring is ever safe. An otherwise comfortless autumn has just been closed by a brilliant October. But for these two opening and closing months it would have been a shabby year.

20th December 1840. The Dissenters have at last proclaimed openly that they are to resist every attempt to reform the Church, particularly by any alleviation of patronage. Their candour has made them discover that it is not "a Church of Christ," that this character belongs only to themselves, and that therefore it is their right, and the Government's duty, to have the Established Church brought into as much odium by its defects as possible, in order that they, the true Church, may rise. Their Central Board has put forth a long manifesto, the reasoning and result of which is — first, that "justice to them" requires the supervision of the Church, and to obtain this they copy their Established opponents in announcing that henceforth they mean to support their ancient and bitter enemies the Tories at elections, at least indirectly, by not voting for the Whigs, rather than support any candidate who refuses to take a test, the words of which they publish. According to the

words given anybody might take this test, because it only expresses the principle that civil rights should not be impaired by religious belief, and that even the Church should obey the law; but, as meant and explained by them, the sentiment is that no preference whatever is to be given to the Church, and no aid is to be given to her adherents even in modifying patronage. They state distinctly that there is only one way in which they can permit the Church to be assisted in seeking deliverance from patronage, intrusion, and civil interference with their ecclesiastical proceedings, and this is "by joining them in an application to Parliament to demand, as the certain, safe, and complete remedy for these evils, the immediate and entire abolition of the connection between Church and State." That is—become Dissenters and we shall help you; if not, we shall help your enemies to keep you subject to what we think an intolerable and unscriptural grievance. What else did George III. say to the Irish Catholics—become Protestants, and I will let you up to my bench, and into my parliament. If Penn, according to this doctrine, had been asked by his dissenting brethren to assist them in getting rid of some of their disabilities, his answer ought to have been, "No, I won't. Some men free themselves of such grievances by abandoning their principles and joining the Church; but I have done it, and you may, by abandoning the country. Come to America

and you will be safe. Mine is the true Church, and to induce you to join it, for your own sakes I shall keep you while you remain in England as much as I can under the very sufferings which have driven me abroad."

These formerly oppressed men, who have never yet made a single advance in the enjoyment of toleration except through the Whigs, have so far begun to sympathise with the Tories, even in politics, as to have discovered that "deliverance from patronage, intrusion, and all civil interference with ecclesiastical proceedings" are, "as innovations on political order, dangerous to the commonwealth." They, moreover, who a few years ago were loudest in their scorn of the objection to the Reform Bill that it gave no compensation for the loss of qualification and of nomination burghs, have now found out that the abolition of patronage (*unscriptural* patronage) is a robbery of patrons, and that even though the members of the Church were to subscribe to pay £150,000 for the Crown patronages, which is said to be their value, Government would be bound to resist so alarming an alienation of "the public property." Government some time ago endowed forty schools in the Highlands under the parochial system, and introduced a Bible Board composed solely of members of a Church whose tenets alone the State knows and approves of, and promised to consult the General Assembly in the

appointment of the inspector of schools—these are all innovations of the rights of Dissenters, and therefore, "the disabilities of Scotch Dissenters may be said to have commenced under Lord Melbourne's Government of 1838." One of their leaders, Dr. John Brown, an able and respectable clergyman in Edinburgh, has within these few days unfolded the views of his sect in a pamphlet still more fully than is done in this Central Board's address.* His argument and his conclusion are in substance the same with that of the address, both being perhaps his own work. But he is somewhat more unguarded in the pamphlet, because he states in distinct terms that the Dissenters having invested money in churches and endowments *on the faith of the abuses in the Church*, it is unfair in Government, or in any liberal man, to do anything towards the correction of these abuses. This he illustrates by supposing that one of the public post-offices had been so defective that the people in the neighbourhood were to set up a voluntary post-office, in which case could anything be more abominable than for Government to make the public office right?

"A plague on both your Houses!" When will either of you cease to speak of toleration and begin to practice it? How many more ages must pass away

* The pamphlet is entitled "What ought the Dissenters of Scotland to do in the present Crisis?"

before the human mind, in its most educated state, shall cease to be so weak that the reason and moral principle, even of men otherwise sensible and good, shall not be extinguished by religious bigotry?

26th January 1841. I anticipated that the seven suspended ministers of Strathbogie would not *ordain* in defiance of the prohibition of their superiors, but I have turned out wrong. They have done it. They have obeyed the order of the Court by admitting and receiving, and as a part of admission and reception, by *ordaining* Edwards. Seven suspended ministers have, at the command of the civil tribunal, ordained a presentee who is not only suspended but under a libel. This may be law, and it may be useful law; but if it be, what jurisdiction exclusive of the control of the Civil Court has the Church?

18th April 1841. Robert Ferguson of Raith died in December last, and his brother, General Sir Ronald Ferguson, died on the 10th of this present month—two admirable Scotch Whigs. These two men showed what good may be effected by mere steadiness of principle and its honest exhibition; for without any superiority of knowledge, talent, or original influence, public principle alone, fearlessly but temperately enforced on proper occasions, and softened by agreeable manners and very amiable acts, enabled them power-

fully to advance the Scotch cause at a time when political independence had few attractions either for military officers or for country gentlemen. So long as Parliament was unreformed, the elder brother was exactly the man whom it was the object of the Scotch system to degrade by exclusion from the House of Commons, because, though a great landed proprietor, he dared to be in opposition. Yet he was returned, even then occasionally, and always since. A taste for science, however, and the personal superintendence of large estates always rescued him from the ordinary frivolities of wealthy idleness; and from his youth to his dying hour he did everything for the improvement of his countrymen that could be accomplished by active but candid co-operation with the Liberal party, and the promotion of all the local benefits which it is in the power of a judicious and generous resident landowner to diffuse. The general had a steady English seat, and after the peace of 1815 he and the late Lord Archibald Hamilton were the two most strenuous defenders of Scotland in the House of Commons. The Parliamentary struggles of this manly and disinterested soldier, unadorned as they were by eloquence, and consequently prompted by no ambition of display, and cheered at that time by very little hope of success, but proceeding solely from the impulse of right opinions and a gallant spirit, did honour to the whole army. Nothing could be more beautiful than the

mutual affection of these handsome, gentlemanlike, and popular brothers, whose patriotism indeed was more graced by their private virtues than it could have been by any splendour of ability. The importance of two gentlemen of their character and station to the side that they espoused can only be understood by those who acted in Scotch affairs before the Reform Bill emancipated the country. It is to the honour of the county of Haddington that the liberal of all parties have concurred in erecting a public monument to the memory of Raith.

23d April 1841. Adam Smith's spirit must surely have been rejoicing over the meetings which have been held of late very generally in Scotland for what were deemed in his day to be the revolutionary doctrines of free trade. A petition was sent this week from Edinburgh against the corn laws, signed by about 27,000 persons. The Glasgow "Demonstration in favour of a revision of the import duties and the repeal of the corn and provision laws" was made on the 20th instant, when the principles of commercial freedom were expounded and defended by our greatest merchants of all political sects. In so far as these may be the mere struggles of one interest against another there is little novelty in them; but, viewed as evidence of the advance of the public mind in political economy they are striking. The people may be wrong in much

that they desire, but no public discussion can now take place on such matters without displaying a greater and more general familiarity with the leading facts and doctrines of this science than any wise man could have anticipated thirty years ago. No monopoly will ever be destroyed without plausible objections by the monopolists; but in Scotland, at least, the restrictive system seems to have very few defenders on principle, and the old notion of enriching ourselves by beggaring our neighbours has scarcely a defender, even among the monopolists. Nevertheless far too little has been done towards instructing the lower orders in the particular doctrines on which their comfort depends, such as pauperism, wages, population, and the consequences of freedom in the market of labour. All the truths that the working-classes are immediately interested in in these and kindred subjects are capable of being made so plain, that there is scarcely any understanding that may not easily comprehend them. They ought to be wrought into the very texture of their mind.

4th June 1841. On the 27th of May the case of the seven suspended ministers of Strathbogie, at which the whole country was looking, was taken up in the General Assembly. The substance of the indictment against them was—first, that in applying to the civil court to obstruct the orders of their ecclesiastical superiors, they had violated their ordination vows and

the laws of the Church; second, that independently of this criminal appeal to the civil power they had been guilty of "contempt" and "contumacy," by disobeying the orders of the Church, on matters with which the Court of Session had not interfered. The facts set forth in support of these charges all resolved into this, that the Court of Session having ordered them to induct Edwards, and the Assembly having forbidden them, they obeyed the former; that, having been suspended for this by the Church, they had got this suspension declared illegal, and its execution interdicted by the Court; and that, in disregard of the suspension, they had not only inducted Edwards, which the civil tribunal had ordered them to do, but had preached, and done all other ministerial duty, which that tribunal had not ordered them to do.

The Commission had found this libel relevant, and had prepared the proof, which was merely formal, for all the facts were admitted. Dr. Chalmers moved that the relevancy be sustained. Against this Dr. Cook moved that the whole "had originated from the said ministers having yielded obedience to the supreme civil tribunals of the kingdom in a matter declared by the tribunals to relate to civil rights, with which the Church requires that its judicatories shall not intermeddle—such declaration on the part of the civil tribunals being in this case in perfect conformity with

the law and practice of the Church; and hence, considering it incompetent for the ecclesiastical courts to pass any sentence of censure in regard to the proceedings to which the said declaration relates, set aside the proceedings, dismiss the libel, and declare that the ministers named in it, and against whom it was directed, are in the same situation in all respects as to their ministerial state and privileges as if such libel had never been served," etc. Chalmers' motion was carried by a large majority; and it was then carried without a vote that they be deposed. Dr. Cook then read and tendered a paper in which, for himself and others, he "solemnly protested" that this deposition was illegal, it being the obligation of all ministers to obey the law; "and fully convinced as we are that they (the deposed) have acted in conformity with this obligation" etc., "we cannot, without violating what we owe to the Church and the State, cease to regard these excellent men as still ministers, or refuse to hold communion with them just as if the proceedings against them had never been instituted" etc. This was allowed to lie on the table till next day, when Dunlop proposed that as it was not in the usual form, and implied direct defiance of the Church, it should be rejected. A night's sleep had convinced Cook that a pledge to hold communion with the deposed—that is, among other things, to interchange pulpits with them, was rash; and therefore he agreed

to its rejection, and afterwards gave in a protest and dissent in the usual way, which was subscribed by numerous adherents. This paper left out the threat or engagement about holding communion, but in other respects was the same with the former one. Still, however, in substance, it was an intimation of something very like rebellion against the Assembly.

On the 28th Edwards was cast forth in a different form. Having been admitted by seven clergymen under suspension he could not be recognised as a minister, and therefore could not be deposed, but his license was withdrawn; and the three undeposed ministers who form what the Assembly calls the Presbytery, were ordered to proceed towards the induction of Mr. Hendry, a new presentee; but foreseeing that this may involve these persons with the Court, they were directed, in the event of any unforeseen difficulties, to communicate with the committee of the Assembly which was to be appointed.

The Veto Act was not only not recalled, or put into a train of being so, but was virtually ordered to be acted on, to the effect at least of delay till next year in all the cases (such as Lethendy) to which it was or might be applicable; and power was given to the Presbytery to libel the person put into Lethendy by order of the Court of Session.

On the 29th the deposed served, or attempted to serve, an interdict on the Assembly, as represented by its Moderator and clerks, against carrying their deposition into effect. This interdict had been granted "in the meantime" by Lord Ivory, who was Lord Ordinary on the Bills, contrary to his own opinion, but because he held himself constrained by what the Court had done in the case of the suspension. The service of the interdict was attempted to be defeated by locking the doors, not opening sealed packets, and other technical follies, which made a great uproar at the time, but would not be worth mentioning after the lapse of even a few days were it not for one point. It was denounced as illegal, and as a flagrant indignity to the Sovereign to serve an interdict, or (as I understand) any other legal process in her presence, either personally or by her Commissioner. This grand idea occurred about ten o'clock at night, when His Grace (Lord Belhaven) was refreshing himself comfortably at Holyrood Palace by potation or slumber. A deputation was therefore despatched to inform him of the outrage on his own and his royal mistress's dignity. He reappears—a self sacrifice which makes what the French call a profound sensation. The Moderator recites the fact to him. He makes a gallant (and safe) answer, declaring his determination always to defend at all risks the privileges of the General Assembly, and the prerogative

of the Crown. The Assembly cheers, and so the affair ought to have ended, leaving it to the Courts to say whether the service had been legal or not.

But it was thought that an egg so providentially laid ought to be hatched; so Candlish moved a magnificent set of resolutions next day, which, with the packets said to contain the interdicts, but which had never had their seals broken, were directed to be laid before Her Majesty. These resolutions repeated the claim of the Church to spiritual independence, and, among other things, the fifth one declares that "any such attempt on the part of any civil court or any civil judge in this realm to interfere with the procedure of this General Assembly is a flagrant violation of the privileges of this National Church, as ratified by the constitution and laws of the United Kingdom, which expressly secured to this Church, and to the supreme Assembly thereof, jurisdiction in all spiritual matters, and especially in the deposition of ministers" etc., etc., "and that while the Assembly fully recognises the exclusive right of the civil courts to determine all civil questions that may arise out of their judgment without any control or interference on the part of the Assembly, the spiritual sentence of the Assembly is and ought to be considered final, and that any obstruction offered to the intimation and execution of the same is an infringement of the spiritual authority which the Church holds directly

and immediately from the Lord Jesus, and from Him alone, as her great and only Head, and is moreover an invasion of her constitutional rights and liberties as the established church of the land." All this was opposed by those who dissented from these principles, or from their application; and who, besides, could see no sense in complaining of the contents of packets which had never been read. However, the whole resolutions were carried.

The deposition of the seven ministers is condemned by many as cruel, and as hurtful to the cause it was meant to advance. No fair judgment, however, would have been formed of almost anything that the evangelical party might have done, and this despair of attracting any support, beyond their own adherents, is one of the feelings that makes them reckless of consequences, which they mistake for boldness. The Church is still riddled, and with increasing fierceness, by a cross fire from both its friends and its enemies. Its enemies exclaim that the Church stands condemned on the present occasion by the mere fact that it has punished the application to a court of law as a crime. They won't see that the Lord Chancellor does this every time that he punishes a breach of one of his injunctions, restraining a party from instituting legal proceedings, or even from using a judgment actually obtained, which he does so as to affect even Scotchmen and other foreigners, who are only within his

grasp by having property in England. All other courts do the same thing. Then some people cry out that the Church has been violating the law, and that it is the duty of the civil court to protect the subject, and they consider this conclusive. They will not stop to consider that the protecting power of the civil court is governed by rules and restrained by limits. The Court of Justiciary would violate the law if it were to sustain the relevancy of a charge of witchcraft, but could the Court of Session correct this? These short and peremptory conclusions are hollow.

The truth is, that even although the Assembly had gone further wrong than it is said to have done, its misconduct would exhibit no injustice beyond what generally marks the collisions between two authorities, each of which thinks itself independent of the other, and takes its own way. The House of Commons and the Court of Queen's Bench were in a state of as great repugnancy last year. The sheriffs of London, who were obliged to serve as such, and gratuitously, were ordered by the Court to execute a writ, and would have been punished if they had failed or refused. They obeyed the law, on which the Commons, who had warned them not to execute the writ, seized and confined them till this unseemly difference was adjusted by a statute. And so long as the Legislature does not interfere in such cases, two supreme authorities, equally conscientious and equally jealous, which

happen to be engaged in a conflict of jurisdiction, must always break each other's heads, and crush its own members, who are guilty of the rebellion of preferring its rival.

But still, most calm spectators of the curious scene are disposed to think that the Church has committed at least three blunders. In the *first* place, it ought not to have deposed these men at all, both because it was unnecessary, and because it was impolitic. Acting, as these ministers had been, under high legal advice, and certain, as the Auchterarder case showed, of being involved in what the Court held to be relevant actions of damages if they did not proceed with Edwards's induction, their applying to the civil tribunal was not an offence warranting *deprivation*. It is true that the House of Commons punished obedience to the law. But they did not punish it so severely; and their punishing it at all was condemned as a piece of tyranny by nearly the whole candour of the kingdom. Something might be necessary to vindicate the Church's authority; but this might have been protected by many milder courses; and they ought to have recollected that no cause is ever advanced by losing the sympathy of the public. At the same time this is unquestionably the course which rival jurisdictions always seem to think the only one open to them. When our Courts of Exchequer and of Session, both supreme, and both inde-

pendent, clashed about seventy or eighty years ago, each imprisoned, or was about to imprison, the other's officers who did the ordered but challenged thing. And in the circumstances here, the mere boldness and determination of the step in deposing has a powerful tendency to sustain the authority of the Church; and those who rail at the audacity of the Assembly had as well reflect on the comparative audacity of the civil court, by which, in effect, not seven ministers but the whole Church was suspended.

In the *second* place, if deposition was thought unavoidable, it ought to have proceeded exclusively on the charge of contempt and contumacy, which would have tended to clear them from the imputation of making an application to a court of justice a crime. It would, no doubt, still have left them open to the charge of acting on the assumption that the suspension of these men by the Church was lawful, after the civil court had found it unlawful. But the Church was not a party to that civil proceeding; and the Assembly could scarcely be expected to hold itself ousted of every particle of its most necessary and usual jurisdiction, by merely learning that the Court of Session had, *ex parte,* taken it away. But the conviction was not merely not restricted to this charge, which many of the majority wished, but such a restriction was purposely avoided, as a shrinking from the true ground on which the example was to be made;

and the result would have been the very same though there had been no *contempt* in the libel.

In the *third* place, they should have suspended the Veto Act, with a view to its ultimate suppression, and should in all other respects have given that obedience to the law, without which, whatever occasional tolerance there may be for its violation by other parties, no *Church* will now be endured. They say that it is they who are obeying the law, and the Court that is breaking it. It may be so. And it is also true that in great political struggles all parties are apt to treat the law with little ceremony, and indeed to be applauded in proportion to the skill or audacity with which they evade or defy it. But this is never seemly in an Established Church; nor will the public ever give this conduct that support, when it is practised by a Church, without which all attempts to beard the law are thought criminal, and are always ludicrous. The resistance by the Church to what three judges, forming a Court, have decided to be law is the chief cause of all the Church's present troubles.

Nevertheless, had they only conducted it with more cunning, they have a case—a case which many wise and impartial men think amounts to an absolute defence, and which at any rate certainly extenuates their errors. The great fact in their favour is the novelty, and the result, of the law to which they have suddenly been required to yield. This law stands

thus—It has been decided, or at least the principle has been recognised, in the case of Auchterarder, that although the Court of Session cannot directly determine the fact whether a presentee be qualified or not, it can do the same thing by determining what is to be held as qualification—that is, it can control the Church in defining it. The Assembly proceeded, in enacting the Veto, on the idea that it was the Church's province to describe and, as circumstances might require, to vary the qualifications; and it held that acceptableness to the people was, or might by it be declared to be, a qualification. This opinion was put down, and the doctrine now is that the civil court can correct the Church in its views of the qualifications that presentees must possess. It was then found that the Church was "bound and restricted" to receive presentees, though not qualified according to its standard. This general declaration the Church did not act upon. But it was discovered that the Court could compel the Church not only to take upon trial, but to induct; and when the circumstance, which for a while was held to be conclusive, was stated—namely, that induction implied *ordination*, the most purely spiritual of all acts—it was announced that the civil court could compel the Church *to withhold ordination or to grant it*. And at last the triumph of the civil law was completed by its being discovered to be competent for the Court to *examine the grounds* on which the Church,

in the exercise of its own internal discipline, suspends or deposes its members, and to interdict or annul its sentences, not merely to the effect of giving the suspended or deposed man all the *temporalities* of the benefice, but of recognising him as the holder of *the spiritual cure.* And these principles, it seems, warrant the interference of the civil tribunal, not merely when it is of opinion that the ecclesiastical sentence is illegal, but whenever it shall think that the illegality consists in mere *abuse.* The same principle which has caused the Court to interdict the Assembly from executing a sentence of deposition, proceeding on what the Church holds to be a crime—no matter whether this crime consists in contempt or in having violated ordination vows by applying in particular circumstances to the civil power—would have entitled the Court to restore John Home if the Assembly had deposed him for writing *Douglas,* provided their Lordships had thought this authorship an act of virtue.

The practical result of all this is that, *as a separate and independent power,* the Church *is altogether superseded.* It is difficult to fancy any act which it can do, or can refrain from doing, without being liable to the review of the Court of Session; so that the great problem has been solved of having a perfectly powerless Church. The Established clergy of Scotland are reduced by these judgments to the

same state as the Established schoolmasters. They are established in so far as they are a body of public officers, appointed and paid by the State, but are as subject in all their proceedings to the control of the supreme civil tribunal as any common inferior court is. Now this may possibly be law; and as all clerical power is dangerous, it may possibly be useful law. It seems to paralyse the Church in that spiritual discipline which has hitherto been exercised so salutarily for the people, and which no sect, even of Dissenters, has ever renounced. Can any candid man wonder that the Church is startled by the announcement of such law? There is probably no living man even on the bench to whom these views had ever occurred three years ago; and at this moment they are demurred to by at least five of the Judges. Nobody could expect the Church to resign that spiritual independence which it holds essential to religion, and which till now was never doubted, without a struggle.

And it has been strongly encouraged in the struggle by the manner in which the new law has been announced and enforced. Except in the two cases of Auchterarder and Lethendy, no one judgment that has been pronounced has been preceded by that discussion and premeditation which alone can give weight to judicial authority. Everything has been done *ex parte*, and interdicts have been asked and

obtained of as unnecessary and offensive characters as if the chief object had been to insult and provoke the Church. Hence, in no one case, except in the case of Lethendy, which involved a direct civil interest, *has any one of the interdicts been attempted to be enforced.* Every one of them has been ostentatiously broken; and the violators, who were not parties before the Court when they were issued, have explained that they meant the violation, partly, as the best form for trying their validity, and have set their names to public statements to the effect that if those at whose instance these interdicts have been obtained did not complain against the persons who disregarded them, such conduct could only proceed from judicial "*dishonesty* or cowardice." But, in spite of all this, the opportunity of having the legality of these prohibitions fairly tried has hitherto been withheld; so that the great questions of the Church's right to restrain its members from attempting to control its proceedings in ecclesiastical matters, by appeals to the civil power, and of the right of the civil power to reverse the judgments of the Church even as to spiritual effects, have been disposed of more summarily than any ordinary case would have been.

It is scarcely possible for the Legislature to stand aloof much longer. The deposed ministers will probably be restored by one statute; and it is full time that this dangerous collision, which the rival powers

will never adjust themselves, was settled anyhow, by another; for the truth is, that, as matters stand, the Church is *dissolved*, and in the most dangerous way. The friends of ecclesiastical establishment are exhibiting, under the authority of the law, an example to its enemies better than any that their hostility could have devised. We have now in Scotland a thing called a Church, the *spiritual* acts of which the law condemns and punishes. We have seven men deposed, and one deprived of his license; but though these eight be cast out by the Church as ecclesiastical criminals, the civil law declares them to be, *even spiritually*, ministers of their respective parishes. And we have a large number of clergymen who openly accede to the rebellion of their eight brethren; and, if they shall act on their protest, we may possibly have, in the course of another year, some hundreds of men recognised by the Judges in every respect as ministers and elders whom the Church disowns. What more can the Voluntary wish? His doctrine is, that religion may be taught effectually without an Establishment; and here his proposition is proved, for the law, as administered, declares that it may be taught, not only without, but against an Establishment.

Let this chaos settle into what order it may, my conviction gains strength every hour, that the end of the Church has begun. If patronage be abolished, or

greatly impaired, we run some risk of having a vulgar and people-courting clergy, who will increase the tendency of our gentry to join the Episcopalians. On the other hand, if the Church be compelled to continue its competition with the Dissenters, shackled by the old grievance, odious for ages to Scotchmen, and more odious, now that they are free, than ever, and from which its rivals are liberated, it must soon cease to be the Church of the people. Of the two, the last is by far the greatest evil. Every nation ought to have the Church, or the system, for which it has the strongest fixed taste, and Scotchmen in general liked the old Church. With a mitigation of patronage the Church would gradually absorb or defeat all Presbyterian sects. Hence the keen and unprincipled ardour with which almost every Dissenter joins his old and natural enemies, the Tories, in keeping this millstone, which, in his own case, he deems unscriptural and sinful, about the Church's neck.

Few political conflicts have arisen in which it is so difficult for reason to agree entirely with any one party. I sometimes fancy what the departed leaders of the Assembly that I have known would have done if they had been now alive. George Hill would have done anything that his political masters, whatever their politics, might have required. John Inglis would have stood stoutly for absolute patronage, and

would never have been so unskilful as to resist the law; but, a churchman, he would have obeyed reluctantly, and solely because it was expedient. Andrew Thomson, the president even in his day of the anti-patronage society, would have set the country in a blaze before he would have yielded one jot either to patronage or to the law. Sir Harry would have discouraged the stirring of these waters any way; but finding that the waves, which the policy of Robertson and the old toryism of Scotland appeared to have suppressed, could be kept down no longer, and struck by the use made by the Dissenters of the circumstance which gives them their only superiority over the Church, he would have resorted to some sort of popular restraint on *patronage*, the Church's power to introduce which he would never have permitted to be questioned. If found wrong by the civil power, he would, in this as in everything, though not till after struggling to the utmost to instruct the courts, have submitted to the law, and would have directed his energies towards the legislature. *The spiritual independence of the Church* he would have laid his head upon the block rather than abandon; and, leaving the law to deal with all the temporalities of benefices as it chose, he would have deemed this independence at an end if the Court of Session could annul the Church's sentences of suspension or deposition. He would not have deposed the ministers

of Strathbogie, because, morally, they did not deserve it. But had nothing stood between them and deposition except a judgment of the Court of Session, and especially an *ex parte* judgment by three Judges, he would unquestionably have trampled upon this obstacle. He never would have hesitated one moment to depose men to *all spiritual effects* who were worthy of deposition, because the Court of Session, looking into the merits of their conduct, were of opinion that such a sentence was unjust or illegal. The Tory coldly and leisurely supplanting the Church by a sulky adherence to iron patronage, and the Dissenter hypocritically pretending that all patronage is right *for the Church*, but that any of it is wrong for Dissenters, he would have torn to pieces; and, though associated with many foolish and excited partisans, no part of his conduct would have been polluted by their bigotry or uncharitableness.

On the 2d of June there was a public meeting held in the Assembly Rooms here, for the purpose of "*sympathising*" with the seven ministers. It was a great and influential meeting, because it was attended by men of all parties. Lord Dunfermline (James Abercromby), who is a champion of the Dissenters, was in the chair. Similar meetings will certainly be held in other places, which will show the impolicy of those who deposed them in giving their opponents

the advantage of this outcry about persecution. It is a perfectly fair topic; but the truth is that very little sympathy is due. These men are absolutely certain of retaining their stipends, manses, glebes, and everything else except being recognised by the General Assembly as ministers; the whole Church stands interdicted from doing any ministerial duty in their parishes, while they are protected and applauded in preaching, and in laughing the Assembly to scorn; and to atone for the Assembly's rejection they are complimented as martyrs by all the Church's enemies, and are cheered by being assured that, except in not being acquitted, they are greater men than the seven bishops. Better-backed martyrs, or more comfortable perseeution have never been.

23d July 1841. The general election, to which the Whig Government appealed about a month ago, and by which its policy stands for the present condemned, has ended very respectably for Scotland. The Tories (I prefer the old word) have only on the whole gained two seats. If England had stood as true to common sense the advance of liberal opinions would not have been stopped, as it now is, for a season. Two things have distinguished our part in this election — the alliance of the Tories with the Chartists and Radicals, and the homage paid by all candidates to the principle of non-intrusion.

The Radicals and Chartist votes were courted wherever there was a contest by Tories, to whom these votes were almost invariably given; and in return, wherever the struggle was between a Radical and a Whig, the Tory votes almost always strengthened the former. James Aytoun, who formerly stood for Edinburgh, and now stood for the Stirling Burghs as a Radical, had the satisfaction of seeing a band of about twenty-five of the most flaming Tories of Stirling and its vicinity walk in a body and poll for him. This coalition has been common also, it is said, in England. If it be wise for the Radical, what is it for the Tory? It has been constantly and confidently asserted by the intrusion party that the *people* of Scotland were perfectly indifferent to the whole matter; yet the fact is that, with I believe one solitary exception, not a single candidate has openly asked votes on the ground that he is a lover of unmitigated patronage. On the contrary, every candidate (except perhaps one) has felt the necessity of acknowledging that some way or other the people should have a control over the patron. Many have abjured patronage altogether, some have been for the Veto, some against it and for Argyle's bill, and some for some other curb, but no one has felt it safe to say in plain words, "I am for patronage as it is." The severe and the liberal Tory have agreed with the Dissenter and with the Church-disliking Whig in blaming the dominant

Church party for resisting the law, in sympathising with the seven martyrs of Strathbogie in invoking the interference of Parliament, and on many other collateral points; but on the essential question of patronage they all *professed* that in their opinion it ought to be at least softened.

CHAPTER IX.

1841-1843.

27TH SEPTEMBER 1841. I have just returned from the North Circuit after a month's absence. I have visited Skye for the first time, and seen the Cüllin Hills and Corruisk. We coasted along the west side of Loch Slappin, and up Loch Scavaig—the weather perfect, the sea like glass. The whole shore of Slappin, along which we were passing, is lined by a perpendicular though not absolutely continuous wall of rock, into which the sea has eaten by washing off the soil, till it has formed a barrier against its own further encroachments. It was low tide, yet the water was deep enough to allow our boat to sail close up to the rock. The line of rock varies in its height from 20 to apparently 200 feet—the average, I should say, about 100 feet. The rock is laid in horizontal laminæ, and is separated vertically into detached pieces at almost every 50 or 100 feet, or oftener; so that it is not an unbroken wall, but a long series of detached and horizontally laminated masses, cut into all sorts of form, from large solid lumps to tall pillars, and worn

into all curious appearances. The fissures between the cliffs are often cleared out entirely, so as to leave no roof; but in other places a roof is often preserved, or, in other words, a cave is formed, and into every crevice the fresh sea entered and laved the pebbly bottom and the clean sides. Even in the interstices on the tops of the fantastic rock—such is the general severity of the storm, or the want of soil—there is scarcely any vegetation, so that the rowers stopped to point out a crack in which a single ash had attempted to root itself, for which it is now bleached nearly white.

But my thoughts were of Corruisk, entirely so as we approached the point we had to double to get into Loch-Scavaig. Ever since we reached Kyle Rhea we had been excited by glimpses of the summits. At last, after rounding the point, at the distance of about seven or eight miles across a sheet of calm bright water, the Cüllin Hills stood before us—seen from their bases to their tops, some of their pinnacles veiled in thin vapour, but most of them in the light of a brilliant meridian sun. I gazed in admiration; and could not for a long time withdraw myself from the contemplation of that singular assemblage of mountainous forms. The Cüllin range extends to eight or ten miles; but the portion before me was not probably above from two to three miles. I am told it is the best portion, and may be safely taken for the whole.

I had fully two hours to observe them during our approach, which lay up and across Loch Scavaig; but indeed their features and characters may be apprehended in a few minutes. Black, steep, hard, and splintered—they seem to stand amphi-theatrically; and rising from the very level of the sea, their irony and shivered tops stream up to the height, MacCulloch says, of 3000 feet (but I suspect this is too much), and are fixed in every variety of peak and precipice, and ridge and pillar, made more curiously picturesque by forms so fantastic, that were it not for their position and obvious hardness it might almost be supposed they were artificial.

On looking round I found new ground for admiration. Loch Scavaig, in the middle of which we were, I saw to be one of the finest sea bays I had ever beheld. Towards the north end the loch is enclosed by these Cüllin mountains. The southern, and far wider, end is locked in by several islands, which, with the projecting promontories of the mainland of Skye, group most beautifully. I was particularly struck with the island of Rum, which is very fine, both in itself and as a part of the general landscape. It is not equal, nor nearly equal, to Arran, either in height or form; but it is the only island I have seen that can justly remind us of that one. The beauty that shone over all these objects was the beauty of mere light and form. There was little visible vegetation; not one

tree; no verdure; no apparent house; no ruin; no sound. But the positions and the forms were admirable; and a depth of interest was impressed upon the whole circle around me by its universal hardness and sterility, which no softening could have increased.

So we went on till, almost palpitating with anxiety, we were landed on a rock at the head of the loch. I found an oar lying in some heather; and on looking round, saw a boat seemingly deserted on the beach, and eight barrels at a little distance. These I learned were the still ungathered store of a poor fisherman who was drowned three days before in trying to cross the stream which flows out of Corruisk when it was in flood.

The level of Corruisk is not, I suppose, more than from 30 to 50 feet above that of the sea; and the fresh loch is not more than half-a-mile from the salt one. The space between them requires scrambling, for it is rocky and boggy. I bade the boatmen remain with the boat and refresh themselves, and I went forward, and in a few minutes stood on the side of Corruisk.

I was foolish enough, considering what I knew, to feel a moment's disappointment at the smallness of the cupful of water. But it was only for a moment. Then I stood entranced by the scene before me. Subsequent examination and reflection were necessary for the details; but its general character was understood

and felt at once. The sunless darkness of the water; the precipitousness of the two sides and the upper end; the hardness of their material, consisting almost entirely of large plates of smooth rock, from which all turf, if there ever was any, has been torn by the torrents; the dark pinnacles; the silence, not diminished but deepened by the gentle sound of a solitary stream; the solitude;—inspired a feeling of awe rather than of solemnity. No mind can resist this impression. Every object is excluded except what are held within that short and narrow valley; and within that there is nothing except the little loch, towered over by the high and grisly forms of these storm-defying and man-despising mountains. On withdrawing one's mind from the passive impression of this singular piece of savage wildness, and looking to particulars, I could not help being certain that the lake is not three miles long, as some state it to be; and I doubt if it is even two. MacCulloch's test of the time he took to walk round it is quite fallacious, because the walking stripe, extending to about 100 yards in breadth between the water and the hills, is covered with large rocks and bog, and getting over these (for it is not walking) is difficult and precarious. However, he may be right, for the largeness of the hills makes the water seem smaller.

It is said there is no vegetable life. Scott won't admit either mosses or heath-bells. This may be fair

enough in a fancy piece, but it is bad in a portrait. There is abundance of both mosses and heather. I picked up about a dozen of the ordinary wild flowers of Scotch hills and valleys. The sweet bog myrtle is in profusion. But enough of stern sterility and calm defiance remains. After lingering over the solitude for above an hour, I withdrew from the scene; and a few steps, which had given me Corruisk, deprived me of it suddenly and utterly. As our bark receded homewards, the Cüllins stood out again; and the increased brilliancy of the sun cast a thousand lights over Scavaig, and all its associated islands and promontories and bays.

I should feel it as a sort of sacrilege to prefer, or even to compare, anything to the Firth of Clyde. But one great difference between the sources of its beauty and those of Scavaig was forcibly impressed upon me. How much does Clyde owe to human associations, to culture, to seats, to villages, to towns, to vessels! The peculiarity of the interest in Scavaig arose from the total absence of all human interference. The scene would have been the same had man not existed.

Close by the shore of Scavaig, and near the point of Slappin, the rowers stopped to point out five huts. It was there the drowned fisherman had lived, and where his remains were then lying, preparatory to their being interred in a burying-place about two miles off

next day. I thought of Steenie; and felt as if ashamed of enjoying an evening which was closing so bitterly over these poor hovels.

The sun, if the wind keeps quiet, makes anything pleasing. I have seen Skye rose-coloured. But its prevailing state is marked by features that cannot be mistaken. The cold cheerless rocks — the treeless desolation—the perpetual tendency of the clouds to rest, as if it was their home, on the tops of the hills—the great corries into which the weather has hollowed one side of most of the mountains—the want of natural verdure—the gray benty colour of the always drenched pasture—the absence of villages — these things mark Skye as the asylum of dreariness. The value of black cattle and sheep has no effect in landscape. The tempest seems to have said to an island of cloud-attracting mountains, surrounded and everywhere pierced by a fierce sea—Thou art my brother! and everything attests their cordiality. To one who visits it for such purposes as mine, it is only redeemed by Cüllin and Corruisk, by the projecting of its promontories, the receding of its bays, and the varying intermixture of its islands, and lochs, and sounds, and the whole host of forms which go to make up its strange composition.

During this interval of the North Circuit the change which was obviously coming has taken place,

and the Tories are once more in power. Sir William Rae and Duncan M'Neill are again Lord Advocate and Solicitor-General, and the old Scotch party predominates. If the Tories were to stand firm to that championship of monopoly and the corn laws for which the agricultural interest has restored them to office, there can be very little doubt that the cry of the people for cheap bread, and of the manufacturers for free trade, would soon drive them from power. So would Ireland, if they were to act upon the Orange principles which they inwardly approve of; but I have no idea that the men who rather than lose office passed the Catholic bill, while at the same moment they condemned its principle and predicated its dangers, will abstain from at least going far enough towards the correction of our commercial system to enable them to stem the popular current. But it is all conjecture. The wind is scarcely more uncertain than political power in a country where the leading parties are nearly equally strong. The misfortune is that it is chiefly a contest of numbers against property. Toryism would be invincible (but then, to be sure, it would not be Toryism) if it could only be made to see that numbers can be made harmless in no other way than by conceding to them all that cannot be withheld without injustice.

Meanwhile the blessings conferred within the last

ten years by the Whigs upon the people of Scotland are recorded in improvements, the value of which no age that never was without them can ever appreciate. Rutherfurd has made an excellent Lord Advocate, but far less as a speaker than in other respects. The whole business part of his office has been done admirably, but he has scarcely fulfilled the expectations which his reputation had excited as a parliamentary debater or manager. He has made some speeches fully sustaining his fame, particularly one upon the great question of Privilege, but he has never taken, nor apparently attempted to take, much lead as a manager even of Scotch affairs. Yet the House of Commons contains few more able or eloquent men. In his case, as in Jeffrey's, the failure, or rather the abstinence, proceeded from want of parliamentary training; from pre-established provincial celebrity; responsibility without power; and the depressing control of Government, which will rarely permit the holder of this office to utter a word if that word be capable of being represented as committing them, without their direct sanction. But in truth Scotland has produced no eminent House of Commons man since the days of Henry Dundas; and it is not an easy problem to say why this should continue so long. It was the natural result formerly of there being no popular representation, and it must last till popular representation shall have time to operate. Some people think that Scotchmen are

not fitted for the House of Commons, and that it will never be otherwise—a prediction for which I see no ground. But certainly I have no expectation of ever seeing a Parliamentary leader, or even debater, arise in the person of a suddenly and temporarily raised middle-aged practising counsel.

14th November 1841. The Court met on the 12th, but Jeffrey, its light and its ornament, was not there. He was taken ill in Court last June, and has never been well since. He went to England in August, where he was so severely attacked by bronchitis that for some days we stood aghast at what we should do without him. He is better, but is still in a state of general constitutional danger, and has been obliged to ask leave of absence, which has been granted in very handsome terms by the Secretary of State. No monument or history of Jeffrey can ever so truly attest his virtues as has been done by the cloud cast over Edinburgh by his absence, and the heartfelt solicitude for his return.

Charles Hope, after being a Judge thirty-seven years, during seven of which he was Justice-Clerk and thirty President, has retired, and is succeeded by David Boyle, the Justice-Clerk. As a lawyer, our late head has never shone; but integrity, candour, kindness, and gentlemanlike manners and feelings gained him

almost unanimous esteem; while an imposing presence, and a voice magnificent even in age, enabled him to perform those many parts of his duty, the performance of which is chiefly to be appreciated from the outside, with great credit. His deficiencies were in law and in judgment. Time has greatly mellowed him, principally by softening his vehemence, and thus letting the humanity of his disposition have fair play. For about sixty years he has acted a conspicuous part in Scotch affairs, and although he has left no trace of himself in any permanent improvement, he is now followed into his retirement by the blessings of all good and considerate men.

Boyle's advance to the highest place in the law has given general public satisfaction. As Justice-Clerk he has been at the head of the criminal court, and of one of the divisions of the civil court, for about thirty years; and the general feeling that his recent promotion was almost his right is the best evidence of the manner in which he has conducted himself during this long public trial. No man's defects and merits can be more distinct than those of this very obvious person. With some great judicial imperfections, he has some of the greatest judicial excellences, without which neither learning, nor talent, nor manners can ever sustain the proper judicial character—untiring industry, perfect candour, and the principles of a gen-

tleman. The desire of avoiding labour, with its consequent impatience and negligence, never for one moment beset Boyle, whose sole ambition has always been that he and his Court should do their duty well; and though the political prejudices of a mind of little native strength, and that received its earliest favourite impressions from the intemperance produced by the French Revolution, may have occasionally biassed his judgment, neither these prejudices, nor any other considerations have ever once obstructed the intentional fairness of a very sensitive conscience, and of a heart resolute in honesty.

The President's commission makes him both Lord President and Lord Justice-General; and instead of taking the criminal title, as Hope did, only in the criminal court, Boyle has come to the foolish resolution of being known only as my Lord Justice-General; and except when addressed in the chair of the Court of Session, Scotland is to know the venerable title of Lord President no more. This ought not to be.

19th March 1842. About a month ago John Dunlop died. He was at the bar, but only nominally; which, however, enabled him to take the Sheriffship of Renfrewshire. People sometimes wondered how so feeble and so retired a creature could venture as a penal magistrate among the strong sailors of Greenock,

or the ill-fed rebels of precarious Paisley; but he did his duty among them very well. It was not in these scenes, however, but in literature that his merits lay. He was an excellent literary reader and thinker, of which his two histories of fiction and of Roman literature are respectable and agreeable specimens; and had he lived a few years longer, I have no doubt that his retired and studious habits would have multiplied and improved them. Besides the old classics, he was intelligent in the literature and in the languages of France, Italy, Spain, and Germany; and he was gentle, amiable, cheerful, and a good talker. In appearance he was exceedingly like a little, old, gray cuddy—a nice kindly body, with a clear soft Scotch voice, so exactly like that of Glenlee that the two were nearly undistinguishable. Every one loved Dunlop; and, with the single exception of a relative who was always trying to swindle him, there was no one whom Dunlop did not love.

4th April 1842. I think I see the Church nodding—not to sleep, but to its fall. Another mine has been exploded under it by the Court of Session, in what is at present ringing as the *Culsalmond* case. It is a long story, and produced long speeches; but its import is short enough. The majority of the Presbytery of Garioch being Intrusionists, and holding the Veto Act to be illegal, inducted a presentee into the parish of

Culsalmond in spite of dissents without reasons by a majority of communicants, and in spite of an offer of dissents with reasons, and in the face of an appeal to the Synod. On this the minority and others applied to the Commission of the General Assembly, which in November 1841 *dealing with the inducted man as for the present minister of the parish*, though not excluding the effect of the future objections that had been intimated to his having been inducted, enjoined him to abstain from doing duty "until a final deliverance shall have been pronounced in regard to the proceedings complained of," and ordained the minority of the Presbytery to perform the spiritual business of the parish in the meantime. Such an order might have been given, as indeed it often has been, although the Veto Act had never been heard of. Nothing is more common than for the Assembly to take upon itself the temporary charge of a parish.

This order was brought before the Court by a bill of suspension and interdict. Lord Ivory, as Lord Ordinary, refused the bill; and Lord Fullerton in reviewing this judgment in the First Division of the Court, concurred in this opinion. But the Lord President, Lord Gillies, and Lord Mackenzie, differed from these two Judges, and passed the bill of suspension in order that the case might be more fully tried; but in the meantime they imposed the interdict. By this interdict they prohibited not only the execution, but

the very intimation, of the order of the Commission; enjoined the minority not to molest the minister; and forbade them to do any ministeral duty within that parish.

The opposing counsel for the suspenders did not, when left to himself, maintain the illegality of the order of the Commission, but this point was raised and argued by direction of the Court. Their Lordships, however, did not decide it, but reserved it for a future morsel. What they went upon was this—they *inferred, from the whole circumstances,* that the Commission had not acted with reference to the appeal that had been taken, or to the dissents that had been offered with reasons; but that, *indirectly,* they had meant to enforce the *Veto Act.* Whether the Court was warranted in holding this *judicially,* I have no doubt that they were right in truth. The Commission's move was a Veto move, and therefore it was illegal.

This being assumed, the three Judges admitted that there was no *patrimonial* interest at stake, in the usual and proper sense of that word; but the minister being ordered not to do duty, they held that he was "disgraced and degraded," and that this raised a civil interest which he had a right to require the Court to protect; and they were further clear that they were entitled and bound to grant him and the patron protection by subverting what the ecclesiastical court had done. Ivory and Fullerton, on the contrary, held that,

as the Commission had acted *ecclesiastically, in a purely ecclesiastical matter*, the civil court, even though the Church had mistaken or had wilfully violated the law, had no jurisdiction to correct its proceedings by obstructing its ecclesiastical acts, any more than it has to correct acts done illegally, but still within their peculiar sphere, by the criminal or the fiscal courts. In support of this principle Ivory gave out an excellent note, and Fullerton delivered by far the best opinion that has yet been given on any of these Church questions.

Now, it is vain to attempt to disguise that the principle of this judgment does *expressly and directly* subject the Church *in every sentence it can pronounce* to the review of the civil court. The principle is, that wherever the Court of Session shall think that the Church, though acting within its peculiar ecclesiastical jurisdiction, has gone wrong, and acted illegally, there the Court can give redress, though there be no other civil interest at issue than what is necessarily involved in every order by which the Church restrains its own members, and though the redress be given in the form of directly suspending, or permanently prohibiting, the execution of the ecclesiastical order. Nothing used to be conceived more entirely ecclesiastical than for the General Assembly to command a minister not to preach, or to suspend or depose him. No one who recollects what the Church used to be universally sup-

posed to be, can wonder that those against whom this new law of the control of the civil court over the most purely spiritual functions of the Church is directed, should feel as if they had got under a new dispensation. This newly-discovered legal Church may be the best of all possible churches, but it is not the Church which any one Scotchman suspected that he had adopted; for though most of the Moderates, with the thoughtlessness natural under the immediate flush of party triumph, pretend to exult in these judgments, there is not one of them into whose imagination the possibility of such things ever entered before; and if the Court of Session had interfered in the same way with the proceedings of *Moderate* General Assemblies, there would not have been one Moderate member who would not have been in arms under Robertson and Hill in defence of the Church. The uses, indeed, to which this ecclesiastical supremacy of the civil court may hereafter be turned, make some of the most sensible among them by no means comfortable under their present victories.

In this situation preparations have begun to be made for that fracture of the Church, for the sake of which its bitter and cunning foes have all along been encouraging its deluded friends to proceed as they have been doing. Considerable advance has been made in the arrangement of a plan for a new secession. Its leading principles are—that they adhere, as the

Original Seceders did, to the opinion that a State Establishment is expedient, but that they have been compelled to renounce the existing Erastian one; that except in patronage, and in subjection in matters spiritual to the civil tribunals, the Church of Scotland, as till lately understood, is to be their model; in particular, that their connection with their flocks is to be on the parochial, and not the congregational system, that the provision for the clergy is to depend as little upon seat rents or any other voluntary contribution from their congregations as the fixed funds will admit of, and that a permanent capital is to be raised for the general purposes of the party by periodical subscription. This scheme, it is said, has been approved of by from 300 to 500 ministers, including Chalmers, Gordon, Guthrie, Candlish and others of our most eminent clergy. If these non-Erastian seceders had money, or could join the existing Presbyterian Dissenters, they would soon, if not at once, put the Church in the minority of the people; but they cannot become Voluntaries (yet), and Scotland is too poor to endow them. The extent of the Secession *at first* is very doubtful, especially among the clergy, who cannot adhere to their principles without sacrificing their livings; but if it shall really take place, it will unquestionably be formidable. It will be the second great modern throe of the Church to liberate itself from what it thinks the old curse of patronage. It will carry off

the best of our ministers; their sacrifice of themselves, and the object for which it is made, will raise their cause and discredit that of the Church, on which great popular odium will rest. These principles, and the sympathy of the Dissenters, will make this second swarm from the parent hive increase exactly in proportion to the steadiness with which the law shall adhere to absolute patronage and to spiritual dependence. They say that they mean to adhere to the Church to the last possible moment, and only to leave Paradise when driven out. I have little hope that the flaming sword will be drawn back.

It will be rather severe; though they profess to view it as a consolation that, after ruining their families, the very concessions will be granted which, if granted in time, would have saved the Church from having its best limb thus torn off. At present the enemies of the Establishment assure its friends the Tories that the promulgation of this scheme is a mere threat; and the Tories believe this!

30th April 1842. The North has been again my circuit this spring. That lovely strath from Blair to Dunkeld was in the perfection of its vernal beauty—the earth, the air, and the trees full of happy animal life, lambs, insects, and birds. Labour had withdrawn from the flat warm haughs, and had finally resigned its seeds to the undisturbed nurture of the elements.

The larches were everywhere covered with that delicate and short-lived verdure, which makes that tree one of the best emblems of the Scottish spring; and what a world of brown bursting buds were the limes and planes and elms, and especially the birches, silently turning out into leaves. The whole scene was worthy of Charles V.'s praise of Florence — that it was too beautiful to be looked upon, except on a holiday.

But the most pleasing circumstance is—the obvious improvement of the human beings who inhabit what was lately not the happy valley. I remember it one of the most squalid regions in Scotland, with the Duke's two houses at its opposite ends, and mud-houses and beggary between. It was an established Athole custom for the children to run, like savages, for miles alongside of every carriage, calling out for charity. The change that is taking place is satisfactory. The mud tenements are disappearing every year; respectable stone houses with their little gardens are rising; the schoolmaster is abroad, with the basin and the towel, so that we could scarcely detect a very dirty face on any child; nor were we assailed by a single beggar, young or old.

10th May 1842. Sir Charles Bell died at a friend's house, near Worcester, on the 28th of April. This is a very considerable loss to the society, as well as to the celebrity, of Edinburgh. It was here, I

believe, that he had been born; and it was certainly here that he had been educated and first practised his profession. A subsequent residence of thirty years in London only strengthened the Scotticism of his heart, and he willingly relinquished all the importance of the metropolis that he might close his days amidst the scenes and the friends of his earlier years. Being about sixty when he accepted our professorship of surgery, he was too old to raise a falling chair; but neither his taste for science nor his zeal in its pursuit ever abated, and he confirmed the grounds on which his fame already rested. The result is, that he has left a European reputation as a physiologist. Holding him, as I think he must indisputably be held, to have the whole merit both of the original discovery and of the best subsequent elucidation of that part of the nervous system with which he is more particularly connected, what greater physiological name has Scotland to boast of? Better qualified for the acquisition than for the communication of knowledge, and with a stronger taste for speculation than for action, though lecturing all his life he was not a good oral teacher; and with a far more complete acquaintance with the principles of his profession, and through the Middlesex Hospital far more experience of its practice, than hundreds who outstripped him in the competition for fees, he never attained great business, which he said, and to a certain extent truly, was owing to the injury

which every professional man does his practice, who gives the public reason to fancy that he prefers his science to his trade. His taste had an affinity for all beautiful objects both in nature and in art, and his general knowledge of painting and sculpture was improved by the delight which he perpetually took in the exercise of his own very great skill as a sketcher. Good, simple, kind-hearted, and easily pleased, and with an occasional absence of manner that made him only seem the more innocent, give him but his fishing-rod and a stream, his pencil and quiet, where was there a better or a happier man? How well do I remember the night before he left Edinburgh, as he then thought for ever, in 1805. He was very sorry to leave this place, especially for the profound solitude of London, where he had not a single friend. Its glory no doubt was before him, but so were its ultimate risks, and its certain present desolation, and his permanent separation from his brother George — a dearer self. We walked about midnight along the north side of George Street, till we were both fatigued, his sentiments always the same — leaving Edinburgh; the uncertainty of the unknown world of London; and George.

19th May 1842. I did not expect that the springs of 1840 and 1841 could be surpassed in Scotland, but 1842 has excelled them both, not so much in the mild

beauty of its April as in the sparing mercy of its May, which, as yet, has not been cruel to a single leaf. The young world never was more beautiful. At this moment the lilac is in full bloom, so are several China roses, one fuchsia has some flowers, the honeysuckle, hawthorn, and laburnum will all be out in a week. I do not recollect seeing any of these so early. I speak of Bonaly—glass-less, wall-less, shelter-less, and 400 feet above the sea.

2d June 1842. Two commissions had been issued from Strathbogie, one of them by the minority, being the undeposed ministers, and one by the seven deposed —each in favour of separate persons, to represent that Presbytery in the General Assembly. According to the recent unfortunate practice of granting any sort of interdict that may be demanded against the Church, Lord Cuninghame had interdicted the members elected by the minority "from taking any steps in pursuance of such pretended election," and "more particularly from founding on the said appointment or election," or "from claiming any right or title of any kind" under it, or from "appearing at the ensuing meeting of the General Assembly, and by themselves or their agents presenting or transmitting" their commission, or from "claiming any right to sit or vote in the said Assembly" etc. This virtually prescribed to the Assembly who its members should consist of. Yet, on

the day after the Assembly had met, the First Division of the Court confirmed this interdict, and issued a similar one in the case of the Presbytery of Stranraer. That Presbytery had a libel before it against the minister of the burgh, for fraud and other immoralities, but he had applied for an interdict against the Presbytery proceeding with the cause, on the ground that the constitution of that body was vitiated by its containing one *quoad sacra* minister. These two interdicts were granted in the following circumstances:—1st, Lord Gillies was in London, and the Court consisted of the President, Fullerton, and Mackenzie. The President and Mackenzie were for interdicting, Fullerton differed; and Lord Ivory, who, as the Lord Ordinary, had reported the causes, expressed his concurrence with Fullerton; so they stood two against two in law; but, as Ivory had no vote, it was carried in form by two against one: 2d, Lord Fullerton wished his two brethren to consult the other Judges, but they refused: 3d, the objection to *quoad sacra* ministers acting in Church courts is at present so doubtful, that the question is set down for hearing before the whole Judges on the 15th instant: 4th, the accused himself is a *quoad sacra* minister—that is, his predecessors and his parish were originally admitted into the Establishment without any sanction from the Court of Teinds, or any civil tribunal: 5th, if he had been deposed, and had thought that the de-

position flowed from an incompetent power, he could have got redress at last, as well as in a preventive form at first. Tripping up the heels of a Court by anticipation is the most offensive form in which it can be controlled.

It was in the prospect of these emollients that the Assembly met. Both sets of commissions from Strathbogie were presented. Nobody proposed that the Assembly should stultify itself by receiving the commission from seven deposed men. All the length that Dr. Cook could go, was to move that both sets of commissions should be rejected. In opposition to this, Dunlop moved that those from the minority should be sustained. The fact of these men being interdicted from taking their seats had been announced, which certainly increased the majority that wished to show its contempt of the civil court. In a house of about 300, Dunlop's motion was carried against Cook's by a majority of about 130. Next day the members from the Strathbogie minority presented themselves, and, after mentioning the interdict, announced that they were now to break it, and took their seats amidst great applause.

The General Assembly disposed of all the cases (and they were numerous) touching the obedience due to the Church in disregard and defiance of the proceedings of the civil court—deposing, suspending, and otherwise dealing with them as it deemed best for the

maintenance of its own position. A manifesto, entitled or described as the Church's "Claim of Right," being a solemn declaration of its claims on non-intrusion and spiritual independence, was produced and read. It was written by Dunlop, and passed without a vote. When the Moderates were the majority, no doctrines could be higher on spiritual independence than theirs, and they profess now to be hostile to intrusion, and say that they only differ from their brethren as to the best mode of preventing it. This paper was ordered to be laid before Her Majesty, and to be circulated "as extensively as possible throughout the bounds of the Christian world." It is a very remarkable production, exhibiting a clear exposition of the condition to which the rescripts of the civil court have reduced the Church, and all done with a powerful hand, and I think in a perfectly fair spirit. Wherever history shall try to describe these events, this paper must be its guide and its mine. It is the essence of the whole story.

The question of the Church's power to make *quoad sacra* ministers members of Church Courts—a question of the deepest importance not only in its operation on future Church Courts but on past ones, is now in dependence before the civil tribunal. If it shall be decided that the admission of such members is incompetent, and that their presence vitiates the constitution of the courts, then scarcely a single Pres-

bytery, and certainly *no Synod or Assembly*, has done a lawful act for several years. These ministers, moreover, being always chosen by the people, are almost universally hostile to Moderatism, and therefore their being maintained, or excluded, is of considerable importance to the two parties. *Expressly on the ground that no justice was to be expected from the Court of Session on any such matter*, the Assembly, on an overture to this effect, declared its resolution to maintain these brethren in all their spiritual rights and privileges, *whatever the determination of the Court might be.* This was opposed, as being not merely a defiance of the law, but a defiance on the mere anticipation of a particular decision in a cause actually depending, and therefore premature and rebelliously disrespectful. The answer was, that any "question as to the nature and extent of the powers conferred by ordination belonged not to the Court of Session but to the courts of Christ's Church."

Another overture was agreed to, whereby "the General Assembly enjoin all Presbyteries to be careful in the examination of all their students, licentiates of the Church, as to the standards, history, and constitution of this Church; and that a committee of the General Assembly be appointed to report as to what means should be adopted for securing from candidates for licence obedience to their ecclesiastical superiors and the law of the Church, and to proceed against

'Simony'"—a harmless resolution apparently. But its object was to mark or exclude licentiates who do not profess to understand the constitution and rights of the Church in the same way in which they are now understood by those who passed it. And perhaps this is the most indirect, and therefore the least dangerous, way in which the Church can preserve what it conceives to be its spiritual authority, without positive collision with the civil court.

Dr. Welsh, Professor of Church History in Edinburgh, and secretary of the Bible Board, was Moderator, a person long steadily attached to the principles of the present majority, but perfectly free from fanaticism and illiberality; amiable, well-bred, temperate, learned, and quietly able. The superiority in point of talent is eminently with the Wild. The spirit of the Moderate seems to have evaporated with their power. Besides several others of ability, and no want anywhere of zeal, the majority were chiefly led by Dunlop, Candlish, Cunningham, and Chalmers.

Dunlop is the purest of enthusiasts. The generous devotion with which he has given himself to this cause has retarded, and will probably arrest, the success of his very considerable professional talent and learning. But a crust of bread and a cup of cold water would satisfy all the worldly desires of this most disinterested person. His luxury would be in his obtaining justice for his favourite and oppressed

Church, which he espouses from no love of power or any other ecclesiastical object, but solely from piety and love of the people. There cannot be a more benevolent or honourable gentleman. Immoveable in his principles, and by no means impervious to occasional contempt or indignation, neither these feelings, however just, nor any other provocation, ever surprises him, even for a moment, out of his gentleness; nor is it possible for the influences of religious controversy to bias his candour. I have all along heard him discuss all these very inflammable matters in private, and while all parties, and nearly all men, have been raging and traducing, I have not only never heard a harsh word from him, but I have never been able to detect the lurking in his heart of an unkindly thought, even towards his least tolerable opponents. Any of these opponents who are candid might safely trust the explanation of their statements or views, in their absence, to the impartiality of Dunlop. I know no other person who so thoroughly unites the society and the agitation of Churchmen with the liberality of a layman and a gentleman.

It requires the bright eye and the capacious brow of Candlish to get the better of the smallness of his person, which makes us sometimes wonder how it contains its inward fire. Not learned, nor even deeply read, his natural ability is excellent; and he has a capacity for public speaking which bad training alone

has prevented from elevating him to a far higher place than even he yet possesses among the orators of Scotland. The crowds that fill his own church, and that gather wherever he is expected to appear, might make it probable that he is a great preacher, were there not so many instances of the popularity of mere zeal. But, in truth, as he has hitherto used it, the pulpit is not his field. When liberated, however, from its temptations, and from the impunity of being mystical and unnatural in a place where he is the idol, and has the only tongue, and compelled to address himself, on practical subjects, to mixed masses of replying men, simplicity, weighty fluency, and powerful talents—equally successful in the elucidation of facts and of reasonings, all guided by an honest and a fearless spirit—justly entitle him to the position which he holds as one of the principal public leaders of his party. Though not altogether devoid of that taste for clerical power which is part of the clerical nature, no one who knows Candlish can question his courage or purity; and few Scotchmen have maintained a modern struggle on Scottish ground with greater constancy or less virulence. In private life he is thoroughly good; unassuming, amiable, playful, and contented.

In one line, and this a rare and difficult one, but one not calculated to impress large audiences, Cunningham, who is perhaps an abler man generally, is a better speaker than even Candlish. Indeed, in the

way of clever, natural, colloquial force and brevity, there are few better speakers.

These scenes make us live in the 16th century. Nobody is comfortable in them except the haters of Church Establishments—chiefly the Scotch Seceder, who, though it be a struggle by his own old friends against that grievance of patronage which drove his founders from the Church, rejoices in the troubles of a rival, and cares for nothing else. With this exception every one is alarmed; the defeated party least so, because it thinks that since it no longer has the management of the system, the system is not much worth preserving. A triumphant vote against patronage must have stirred the bones of Robertson and Hill in their graves. The scorn of the Court of Session, instead of being decently covered, was openly expressed, with all the insult of defiance and laughter. The result is that the Church may be said to be at this moment actually broken up. Is that an Established Church which does not merely trample on what it has received as the law in its general principles, but purposely and ostentatiously violates direct judicial injunctions served upon itself in reference to specific proceedings; which recognises members in its Courts whom the law interdicts from acting there; which refuses to recognise members declared by the law to belong to it; and which punishes its clergy for the crime of seeking the law's shelter? Where is the

alliance between Church and State when the State holds men deposed by the Church to be ministers; gives benefices to men not only not ordained but not even licensed; is in fierce collision with the Church on every principle of its constitution; and when the Crown sends its Commissioner to represent it in an Assembly partly composed of members whose presence the supreme civil court says vitiates its legal character, the Church does little else during its whole sittings than insult that supreme court?

As is usual in such conflicts, no party is right. The Moderates are the least wrong. They stick to their old genuine principle of aversion to popular control; for though they are now driven to profess a degree of liberality in this matter which would have horrified their brethren in the olden time, this is merely superficial, and the spirit of that time is still in their hearts. Their great error lies in the encouragement which they give to the control claimed by the civil tribunal, and to the rebellion attempted to be practised against the Church by its own sons. They will feel the recoil if they ever recover power; and they are inwardly afraid of this themselves. They know that if the Court of Session had fired interdicts into the Church in Robertson's time, as it has done lately, the Principal would have headed his whole battalion of Moderates in charges on the Court; and that not even the form of a conference would have been waited for, before any

Wild minister had been deposed who had indicated a tithe of the rebellious spirit which his successors have excited.

The Wild are suffering severely and justly for the folly of adhering to the Veto Act after the House of Lords declared it to be illegal. Giving it up would not have been inconsistent with any of their constitutional principles, however inconvenient it might have been to their policy, or however galling to their pride. Their not doing so is the source of most of their troubles. The great prevalent charge against them is, that if they desire an abatement of patronage they ought to concentrate themselves constitutionally on this single point, without defying the civil court or punishing those whose consciences lead them to obey it. And so they should. Obedience to the law is the only doctrine that can ever be preached. At the same time, two things must be recollected. In the first place, that there may be conflicts of jurisdiction when neither court can be much blamed for not at once submitting to the law as given by the other; in the second place, that much in human affairs is unfortunately conceded to violence, when little would be yielded to reason. All disobedience of the law is always to be condemned, not in words alone, but in sincerity. Yet in appreciating the conduct of one party in this respect, we must keep the general conduct of every other party in view. Nothing that the majority did was out of the course

of the battle in which they were engaged. They might certainly have admitted the commissions from the seven of Strathbogie, and thus recognised the very ministers they had deposed. They might have stopped in the exercise of their peculiar jurisdiction of trying clerical immoralities; and, because they had some *quoad sacra* ministers among them, they might have told his Grace the Commissioner that, being no Assembly, he had come to the wrong place. And they might in all things else have acted, or not acted, exactly as three, or as even two, Judges of the Court of Session directed them; but then they must have renounced their whole principles and objects, and betrayed what they held to be the Establishment. This is one of the cases in which the world will probably think the party in the right which shall ultimately succeed. Meanwhile, these men are fighting a gallant battle; and their recent resolution to agree to no scheme which shall give power to them and not to the people, makes one overlook some of their Covenanting sublimities.

I groan for the Court of Session. Its clear course was to remember that some in the majority of its Judges had till lately been members of the General Assembly, ardent in Moderatism; and, to guard against the feelings and the possible imputations connected with this fact, it ought to have recollected that in public struggles the glory of a court consists in so conducting itself as that all parties can rely on its

justice, and that none can without absurdity impeach its candour.

As to Government, both the late and the present, it seems resolved to abdicate upon this subject. It will do nothing. Yet it is a subject calculated to shake even the English Establishment; for how long will that Establishment survive, or in what comfort, when the Church is in a hated minority both in Ireland and in Scotland, and when dissenting Scotland shall have confederated with the Presbyterianism, if not with all the Dissenters, of England? Yet Government has hitherto done nothing. It has professed a desire to conciliate, and lamented, and invited private individuals to try their solder, and threatened; but in reference to the authority of a Government it might just as well have not existed, for which it is greatly admired by, and greatly blinded by the praises of, all those who wish all Establishments down. But, in truth, Government is not aware that it has no power to resist. It may look on till the Church's heart be torn out by her rival sons, or it may continue to place unpopular ministers by military force, as has lately been done, or it may fulfil its present favourite threat of "enforcing the law" by the incarceration of future interdict-breakers, or it may pass an Act of Conformity, and eject all ministers who refuse a test; but in reference to the only material object—the preservation of the Establishment—these courses are all vain,

for the secession of half the clergy of Scotland cannot be prevented; and whenever this takes place the Establishment may be considered at an end.

It is proper to observe that the Church claims no authority over the stipend or other temporalities. It lets him of Stranraer and him of Cambusnethan enjoy their chalders and even their manses. It only insists that spiritually they shall not be ministers; but the Court of Session says that they shall.

8th August 1842. By a return to the House of Commons, it appears that the law-suits against the Church now in dependence are thirty-nine in number; but there has been a gush of complaints for breach of interdict since the date of this return, and I have no doubt that they now amount to about fifty or even more, in not one of which will the Church be successful. After encouraging violations of interdicts in all quarters for the last four years by never complaining of them, a complaining fit has lately seized the interdicters, and the chief business of the Court of Session next winter will consist in supporting the Establishment by fining and imprisoning the best men it contains; and that will only promote the repetition of the offence.

31st October 1842. I return to town and harness to-morrow. From the first day of April to this, the

last day of October, we have probably not had ten rainy days, and not one day absolutely bad. Seven months of uninterrupted calm, dry, mild weather, if precedented, is so very rare in this country, that the youngest who has seen it may lay his account, let him live as long as he may, with never seeing it again. The year 1826 is the only one spoken of as like this, but there is no resemblance between three months of burning sultriness and seven months of gentle mildness. Drought has quenched thousands of springs, and loud have been the groans of millers. But this is because people will never provide except for average seasons; for though the heavens have been as brass, the earth has by no means been as iron; only the water has not been in the usual places. Among other evaporated lakes, the pond (of about forty acres I think) made by the Edinburgh Water Company for compensating to the mills on the Esk the loss of the Crawley springs taken into Edinburgh has entirely disappeared, and even the springs have shrunk; and the city thirsts, and there is an uproar for a rival Water Company, in which I wish the people all success.

The disappearance of the water from this compensation pond restored to light the few scarcely discernible fragments of the wall of the old chapel of St. Catherine's (long since united to Glencorse) and the large flat solitary tombstone of a St. Clair, who was carried up that glen to his long home in 1623. In its

old sequestered turf and silent hills this was a relic which every passenger mused on and respected; but no sooner was it re-exposed after its twenty years' submersion, than it had the misfortune to become a curiosity, and the crowds who went out to walk over the bottom of the lake attested the interest they took in it by chipping it all away. In particular, whenever a letter was detected, it was sure to be hit by a hammer or a stone. Sometimes it was the possession of a bit of the stone that was wanted, but oftener it was the mere pleasure of hitting. Yet, as usual, nobody interfered, no Vandal was knocked down and then hanged, and the sacrilege was committed day after day under the very eye of the Company's well-paid superintendent. Yet they took considerable credit to themselves because, after the tombstone was destroyed, they protected it by covering it with earth. The very slightest precaution—a well-timed word—would, as in all similar cases even in Scotland, have prevented the sin of inadvertence.

8th December 1842. The Church crisis is rapidly approaching. In November last the majority held what they called a *Convocation*, which continued its consultations till the evening of the 24th. They met in a *quoad sacra* chapel in Roxburgh Street; their discussions were all so strictly private that the exact proceedings are not accurately known beyond what

they have published, and all that they have as yet published are two series of resolutions. The result is that 427 ministers (and nobody but ministers were allowed to be present) adhere to the first series, protesting against the encroachments of the civil tribunal as subversive of our ecclesiastical establishment; and of these 354 adhere to the second series, and at once announce that if Government does not give them redress they must leave the Church.

It was a bad season for getting those at a distance to Edinburgh, and a considerable number only sent letters of adhesion; but whether these amounted to about 30 or to about 150 I cannot ascertain. Though only 427 voted, there were about 500 present at some of the meetings, many of whom, however, though they concurred generally, would not, or at least did not, remain till the votes were taken. A considerable number of ministers of chapels of ease, Government chapels, and *quoad sacra* parishes, were present—how many I cannot discover. The numbers, however, are infinitely less material than the public characters of the men. It may be doubted if there be a dozen of ministers in Scotland who are, or deserve to be, popular either with the lower or the higher orders, who are not among these 354. This band contains the whole chivalry of the Church.

I have not the slightest expectation that Govern-

ment will do anything, and a majority of the Court of Session will certainly go on exceeding and aggravating all that they have yet achieved. The Dissenters and the Tories (steady allies in all this matter) laugh at the idea of so many Churchmen sacrificing benefices for principle. How many will adhere practically to their late pledges will be seen hereafter. Even a dozen of eminent ministers, nay one, leaving the Church because the civil power has made it what they never understood it to be, would be a bad fact for the Establishment. One man doing so about the year 1737 made the Secession Church. But at any rate, should even the whole 354 fail in the day of trial, and remain where they are, neither Tory nor Seceder can doubt that they do so chiefly for the sake of the temporalities—that is, because they are too poor or too weak to abide by their principles; and is the stability of a Church increased by 354 of its clergy adhering to its emoluments rather than beggar their families, while they shudder at its new constitution?

12th January 1843. The answer from Government to the Church has at last been published. It is contained in a letter from Sir James Graham, addressed to the Moderator of the General Assembly, and dated Whitehall, January 4, 1843. It has certainly the merit of being distinct and decisive. Its result is that

no relief is to be granted either as to patronage or as to the encroachments of the Court of Session. Patronage (it seems) has not only existed for about 130 years, but it has been owing to it that the Church has been so successful, and Government must not only assume that whatever the courts of law do is right in law, but that the law judicially declared is not to be touched by Parliament. So everything is to be upheld. The answer is clearly and calmly written, with no more sneering than was to have been expected; and no Secretary of State who denounces priestly ambition, and maintains the supremacy of the civil law over the Church, will ever want applause. But, in point either of view or of argument, this first hostile manifesto that Government has discharged at the Establishment since the Revolution contains nothing new. The remarkable thing is that on the only, or at least on the chief, points on which sensible men think the Church right, this Government pleading assumes the law to be exactly the reverse of what the Court of Session has found it to be. No sensible person defends the Church for adhering to the Veto Act, since it has been found illegal, nor for deposing the Strathbogie ministers on the ground that they obeyed what the Judges told them was the law, nor for any disobedience of the law; but what they defend the Church upon is in its claim of independence *quoad* the spirituality in

purely spiritual acts, particularly in the exclusive right of giving or withholding licences, of admitting, ordaining, and deposing. Government's refusal to interfere is founded very much on the statement that in all these matters the Church is absolutely independent. It is so said in express words; but alas! there is not one of these acts with which the Court of Session has not interfered, and interfered not merely by withholding civil effects, but by controlling the ecclesiastical tribunals in the *ecclesiastical proceeding itself*. I suspect that the Church would close with Government on the Secretary of State's terms; but he is not aware that, *as the law has been declared*, the Court can *always* reverse the ecclesiastical proceeding, or can by damages compel the Church to reverse it, provided the Court thinks that the Church, though acting within its proper sphere, has gone wrong in law.

The number of adherents to the first series of resolutions adopted by the Convocation has now risen from 427 to 499, and to the second series from 354 to 450. They have been advised to try Parliament before seceding. If they do so, the secession will probably not take place till about next Assembly. Meanwhile it is impossible to say whether the Chartists or the Tories are in the highest ecstasy.

It is not known who the compounder of this "State paper," as it is called by its admirers, is. It is

certainly not written by Sir James Graham, the Home Secretary, who signs it. Some give it to Duncan M'Neill, the Lord Advocate; who, however, I don't believe wrote it. He would have been shorter, more guarded, and would not have felled himself by calling the Second Book of Discipline (which is non-intrusion and independent throughout) "a standard of the Church." It is all much liker Lord Aberdeen.

16th January 1843. And now we have the answer to it*—an answer which no man except Alexander Dunlop, its real author, could have written. Very few could have stated the true case of the Church with such accurate learning or such luminous force; nobody else with such candour and quietness.

26th January 1843. On the 20th instant the Court again maimed the Church by another most effective slash. It was inflicted by the decision of what is called the Stewarton case.

The inadequacy of the Establishment for the religious instruction of the modern population has been long admitted and lamented by all friends of religious Establishments. The Church of Scotland has always had a power to remedy this to a certain

* Minute of the General Assembly's Special Commission, January 12, 1843.

extent by sanctioning Chapels of Ease; but it has always been found that three circumstances impaired the efficacy of these substitute churches, and made the remedy inadequate — that there was no district assigned to them, so that there was only a loose congregational connection between the pastor and his flock, instead of a fixed local one; 2d, it not being intended that the chapel minister should deprive the regular parochial one of any portion of his dignity or power, but should merely relieve him of his duties, he was not allowed an independent kirk-session, the effect of which was that, except through a few members of the parish session who were lent him, he could exercise no discipline; 3d, the chapel ministers were not recognised as members of the Church Courts, which not only lowered them in the public eye, but deprived them of the ordinary means of communicating with their superiors. These circumstances made respectable clergymen not very anxious to be put into chapels, which being in general left to a lower set of men, with no hold of the people except by warmer zeal, were specially abhorred by the regular Moderate ministers. I was counsel for several years in all the chapel causes before the General Assembly, and can attest that what was *professed* by the Moderates was, that they had no dislike of chapels; but what was truly felt and privately avowed was, that

they would much rather have a Roman Catholic chapel than a Chapel of Ease in their parishes. The Roman Catholic priest suggested no competition with them; their humble and devoted brother did. The consequence was, that while the century prior to 1834 had produced above 600 *Dissenting* chapels, it had only produced about sixty-three chapels in connection with the Establishment. The fact of the Dissenters having 600 chapels is of itself evidence that the Church ought to have had a great number. It is a proof that the people required them, and that therefore the Church ought to have supplied them.

With a view to correct these evils, the Assembly, in 1833, raised the forty Government churches as they are called—that is, the chapels that had been endowed by Government in the Highlands, to the rank of parish churches, by admitting the ministers into the Church Courts. In 1834 the Assembly passed another Act declaring that all existing and all future ministers of Chapels of Ease should be also recognised as members of Church Courts, and should have districts assigned to them, and kirk-sessions of their own. A number of new churches had been built by the Church Extension funds; and in 1837 the same rules were applied to them. And in 1839 these rules were prospectively extended to such Secession chapels as should be resumed into the Church.

All this was done only *quoad sacra*, and with an anxious reservation of all civil rights and interests. Probably no measures were ever concurred in so unanimously by men of otherwise opposite opinions. The Moderate party seemed to be as cordial in promoting them as the Wild. And no wonder. Because it had been made evident that it was only from the internal power of the Church that any adaptation of the Establishment to the growth of the people could proceed. An attempt had been made to get that part of the law repealed, which permits the Court of Session to divide parishes, and to erect new ones, *only with the consent of three-fourths of the heritors*, because in great towns such consent was found to be absolutely unattainable. But this most reasonable change was opposed, though not very ardently, by heritors, and was resisted with the whole force of the Dissenters. The result was that the Bill was abandoned. The law therefore continued to afford no remedy for such cases as those of St. Cuthbert's or the Barony parish, where there was only one minister for 70,000 or for 100,000 people. On this, the Extension Scheme began; but though very considerable sums were raised by private contribution, the unreasonableness of the Church, the poverty of Government, and the never-failing malice of the Dissenters prevented this scheme from receiving any public aid, and

consequently made it fail as a general and systematic relief. It was the abortiveness of these attempts that reconciled almost everybody to the efforts of the Church to increase its own strength, by improving the efficacy and respectability of its associates. With such unanimous assent were the chapel, the Government, and the *quoad sacra* ministers brought into the Church Courts, that in the year 1836 Dr. Norman Macleod was made *Moderator* by the *Moderate* party, though he was only minister of a Gaelic chapel in Glasgow.

The result of this effort shows how great its necessity must have been. About twenty-four congregations of Seceders joined the Church; about 150 churches were erected by the Extension Fund, which, when joined to the forty Government churches, made an addition of about 214 churches, each with a district, a minister, and a session, to the strength of the Establishment. The effect of this over the country may be judged of from its operation in two places. St. Cuthbert's, instead of having one parish church with two ministers and one session, aided by three chapel ministers without sessions or districts, for 70,000 people, obtained nine churches with ten ministers, each of the nine having a session and a district. The Barony parish of Glasgow, which used to have one church, one minister, and one session, eased by four

chapels, for about 80,000 souls, obtained eighteen churches and eighteen ministers, each with its district and session. I do not pretend to accuracy in these, or indeed in any similar details. I am sure of the general facts, and exactness in the particulars is immaterial.

The Assembly might, no doubt, have gone on as it had been doing, and merely helped the people by Chapels of Ease. But this, as an adequate scheme, had practically failed; and chiefly because a minister without a session, a local sphere, or a seat in the ecclesiastical courts, was found to be comparatively useless. But this natural absorption into the Church of its looser materials, and all the prospects of native usefulness which their assimilation implied, was soon tainted by the spirit of party. All these *quoad sacra* ministers, as they are termed, naturally belonged to the evangelical party, because they were peculiarly the pastors of the poor; and while disliked by the Moderate, were patronised by the Wild. Although the Wild therefore were unquestionably actuated, in introducing them into the Church, by an honest perception of the usefulness or rather of the necessity of the measure, the prospect of strengthening their party undoubtedly entered into their consideration. Its tendency to do so was not absolutely unobserved by their opponents; but it was not foreseen in its full result. This result was, that the *quoad sacra* minis-

ters always increased the majority of the predominant party, and in presbyteries sometimes turned the scale, and in every Church Court aggravated the evangelical tone, so odious to the Moderate. From the moment that this was felt the suppression of the *quoad sacra* ministers—in other words the extinction of above 200 hostile votes—became the object of the very party that had assisted to rear them. And they had not far to go to get them set aside. A congregation of Seceders, in the parish of Stewarton and Presbytery of Irvine, wished to reunite with the Church, and the parish was far too large for a single minister. The Presbytery therefore acceded to the proposal, assigned a district and a session, and gave the minister a seat in the ecclesiastical courts; and, in short, erected this into a parish *quoad sacra*. The heritors objected; and although a decree declaratory of the illegality or inaptness of what was threatened would have been sufficient, they applied for the more offensive protection of an interdict. This gave rise to long written pleadings, a hearing before the whole Court, and elaborate opinions from the bench. There were some minor objections taken—such as that the new minister had not taken the oaths to Government, but these insignificances were overlooked, and the judgment was directed to the points of deeper and more general importance. These points were, 1st,

whether the Court had any jurisdiction to review the ecclesiastical act of the Church? 2dly, whether, supposing that there was jurisdiction, what the Church did was illegal? On these questions the thirteen judges divided, as in the great question of Auchterarder, eight to five; the majority holding that the Church was wrong, and was liable to be controlled by the civil tribunal; the minority maintaining the reverse on both points. The eight were the Lord President, the Justice-Clerk, Meadowbank, Medwyn, Mackenzie, Cuninghame, Murray, and Wood; the five, Moncreiff, Fullerton, Jeffrey, Ivory, and myself.

The interlocutor suspends and perpetually interdicts; and, by applying this to the prayer, it interdicts a *quoad sacra* minister from sitting in the Presbytery, the Presbytery from dividing the parish—that is from allocating a *quoad sacra* district, the new kirk-session from exercising discipline, and all the parties complained of "generally from innovating upon the present parochial state of the parish of Stewarton as regards pastoral superintendence," etc. There was no peculiarity in this parish, and therefore the decision virtually smites down the whole *quoad sacra* churches in Scotland. Yet this blow is immaterial compared with the principle upon which it has been struck. This principle is, that *wherever* the Church commits what the Court of Session thinks an error in law, or

at least an abuse, the Court has jurisdiction to correct that error or abuse; in other words, the Church has no independent jurisdiction whatever. The majority do not *profess* this principle, but they have been invited and even taunted to specify the single ecclesiastical or even spiritual act which the Court cannot control, and they have not yet been able to hit upon it.

But we shall very speedily have other and more astounding examples of the utter annihilation of the Church as a separate and independent authority. We have another Strathbogie and another Auchterarder before us.

END OF VOL. I.

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